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WHAT IT IS AND HOW TO USE IT

- FOR:** Any person who uses the Federal Register and Code of Federal Regulations.
- WHO:** The Office of the Federal Register.
- WHAT:** Free public briefings (approximately 3 hours) to present:
1. The regulatory process, with a focus on the Federal Register system and the public's role in the development of regulations.
 2. The relationship between the Federal Register and Code of Federal Regulations.
 3. The important elements of typical Federal Register documents.
 4. An introduction to the finding aids of the FR/CFR system.
- WHY:** To provide the public with access to information necessary to research Federal agency regulations which directly affect them. There will be no discussion of specific agency regulations.

WASHINGTON, DC

- WHEN:** June 25, at 9:00 am
- WHERE:** Office of the Federal Register,
First Floor Conference Room,
1100 L Street NW., Washington, DC
- RESERVATIONS:** 202-523-5240

NEW ORLEANS, LA

- WHEN:** July 23, at 9:00 am
- WHERE:** Federal Building, 501 Magazine St.
Conference Room 1120,
New Orleans, LA
- RESERVATIONS:** Federal Information Center
1-800-368-2998

Contents

Federal Register

Vol. 56, No. 107

Tuesday, June 4, 1991

Actuaries, Joint Board for Enrollment

See Joint Board for Enrollment of Actuaries

Agency for Health Care Policy and Research

NOTICES

Committees; establishment, renewal, termination, etc.:
Mammography quality determinants; clinical practice
guidelines development panel, 25430

Agricultural Marketing Service

PROPOSED RULES

Milk marketing orders:
Carolinas, 25375

Agricultural Stabilization and Conservation Service

RULES

Sugarcane, sugar beets, soybeans, and peanuts; disaster
payment program for 1990 crops, 25345

Agriculture Department

See Agricultural Marketing Service; Agricultural
Stabilization and Conservation Service; Cooperative
State Research Service; Farmers Home Administration;
Forest Service; Rural Electrification Administration

Alcohol, Drug Abuse, and Mental Health Administration

NOTICES

Federal agency urine drug testing; certified laboratories
meeting minimum standards, list, 25431

Arms Control and Disarmament Agency

NOTICES

Agency information collection activities under OMB review,
25404

Army Department

NOTICES

Meetings:

Science Board, 25414, 25415
(3 documents)

Arts and Humanities, National Foundation

See National Foundation on the Arts and the Humanities

Census Bureau

NOTICES

Surveys, determinations, etc.:

Communications, public utilities, and transportation;
finance, insurance and real estate; services not
classified elsewhere, 25405

Civil Rights Commission

NOTICES

Meetings; State advisory committees:

Connecticut, 25404
New York, 25404
North Dakota, 25405
South Dakota, 25405

Meetings; Sunshine Act, 25444

Coast Guard

RULES

Drawbridge operations:

District of Columbia, 25369

PROPOSED RULES

Drawbridge operations:

New Jersey, 25397

Commerce Department

See also Census Bureau; Foreign-Trade Zones Board;
International Trade Administration; National Oceanic
and Atmospheric Administration; Technology
Administration

NOTICES

Meetings:

Competitiveness Policy Council, 25405

Committee for the Implementation of Textile Agreements

NOTICES

Cotton, wool, and man-made textiles:

Hungary, 25413

Community Services Office

NOTICES

Grants and cooperative agreements; availability, etc.:

Discretionary grants program, 25492

Jobs opportunities for low-income individuals program,
25526

Training and technical assistance program, 25556

Cooperative State Research Service

PROPOSED RULES

Small business innovation research grants program;
administrative revisions, 25800

Customs Service

RULES

Recordkeeping, inspection, search and seizure:

Seized property; administrative forfeiture, 25363

PROPOSED RULES

Recordkeeping, inspection, search and seizure:

Seized property; low-value, disposition, 25383

NOTICES

Textile category guidelines; men's and boy's shirts, not knit,
25443

Defense Department

See also Army Department

RULES

Federal Acquisition Regulation (FAR):

Miscellaneous amendments

Correction, 25446

PROPOSED RULES

Acquisition regulations:

Contract financing

Correction, 25446

NOTICES

Agency information collection activities under OMB review,
25413, 25414

(2 documents)

DOD directives system annual index:

Change 1, availability, 25414

Meetings:

- Special Operations Policy Advisory Group, 25414
- Strategic Defense Initiative Advisory Committee, 25414

Defense Nuclear Facilities Safety Board**NOTICES**

- Meetings; Sunshine Act, 25444

Education Department**NOTICES**

- Agency information collection activities under OMB review, 25415, 25421 (2 documents)
- Grants and cooperative agreements; availability, etc.:
 - Minority entities and underrepresented populations outreach services; discretionary programs participation, 25454
 - National workplace literacy program, 25578

Energy Department

See also Federal Energy Regulatory Commission

NOTICES

- Natural gas exportation and importation:
 - Poco Petroleum Inc., 25425

Environmental Protection Agency**NOTICES**

- Agency information collection activities under OMB review, 25425
- Water pollution control:
 - Public water supply supervision program—Montana, 25426

Executive Office of the President

See Trade Representative, Office of United States

Family Support Administration

See Community Services Office

Farmers Home Administration**RULES**

- Program regulations:
 - Multiple family housing loans; security servicing, 25350

Federal Aviation Administration**RULES**

- Air carrier certification and operations:
 - Passenger-carrying and cargo air operations for compensation or hire, 25450
- Airworthiness directives:
 - Beech, 25360
 - Boeing, 25353-25356, 25362 (4 documents)
 - General Electric Co., 25358
 - GROB Luft und Raumfahrt, 25357
 - Wytownia Sprzetu Komunikacyjnego PZL-Mielec, 25359

PROPOSED RULES

- Airport radar service areas, 25381

Airworthiness directives:

- Beech, 25379
- Boeing, 25380
- VOR Federal airways and jet routes, 25382

NOTICES**Meetings:**

- Aeronautics Radio Technical Commission, 25442

Federal Communications Commission**RULES**

- Common carrier services:
 - International accounting rate regulation; U.S. carriers operating agreements, 25370
- Radio services, special:
 - Amateur services—
 - Mailing address and station location, 25372

PROPOSED RULES

- Common carrier services:
 - International accounting and collection rates regulation; international calling prices, accounting rates, and resale of U.S. provided telecommunications services, 25400

NOTICES

- Agency information collection activities under OMB review, 25427 (2 documents)
- Meetings; Sunshine Act, 25444
- Rulemaking proceedings; petitions filed, granted, denied, etc., 25428
- Travel reimbursement program; quarterly report; correction, 25428

Federal Energy Regulatory Commission**NOTICES**

- Hydroelectric applications, 25421

Federal Highway Administration**PROPOSED RULES**

- Engineering and traffic operations:
 - Highway bridge replacement and rehabilitation program; eligibility revision, 25392

Federal Maritime Commission**NOTICES**

- Agreements filed, etc., 25429
- Freight forwarder licenses:
 - Ambassadors International et al., 25429

Federal Mine Safety and Health Review Commission**NOTICES**

- Meetings; Sunshine Act, 25444

Federal Procurement Policy Office**NOTICES**

- Government-wide small business and small disadvantaged business goals for procurement contracts; policy letter; correction, 25447

Federal Reserve System**NOTICES**

- Meetings; Sunshine Act, 25444

Fish and Wildlife Service**PROPOSED RULES**

- Endangered Species Convention:
 - American ginseng harvested in 1991-1993; export Correction, 25447

Food and Drug Administration**RULES**

- Food additives:
 - Polymers—
 - Poly(vinylidene fluoride) homopolymer, etc.; correction, 25446

PROPOSED RULES**Food for human consumption:**

- Beans, canned green and wax; identity standards, 25385

NOTICES**Food for human consumption:**

Food safety and quality emerging issues for the next decade; report availability, 25433

Foreign-Trade Zones Board**NOTICES**

Applications, hearings, determinations, etc.:

Maine, 25406

New York

Sayett Technology, Inc.; computer projector display plant, 25406

Forest Service**NOTICES**

Environmental statements; availability, etc.:

Mt. Hood National Forest, OR, 25404

General Services Administration**RULES**

Federal Acquisition Regulation (FAR):

Miscellaneous amendments

Correction, 25446

Health and Human Services Department

See Agency for Health Care Policy and Research; Alcohol, Drug Abuse, and Mental Health Administration; Community Services Office; Food and Drug Administration; Health Care Financing Administration; Health Resources and Services Administration; National Institutes of Health; Public Health Service; Social Security Administration

Health Care Financing Administration**RULES**

Medicare:

Geographic Classification Review Board; procedures and criteria, 25458

Health Resources and Services Administration

See also Public Health Service

NOTICES

Grants and cooperative agreements; availability, etc.:

Community health centers; establishment and expansion, 25435

Organ procurement organizations, 25433

Interior Department

See Fish and Wildlife Service; Land Management Bureau

Internal Revenue Service**RULES**

Excise taxes:

Fuel floor stocks of 1990; gasoline, diesel, and aviation, 25364

International Trade Administration**NOTICES**

Countervailing duties:

Circular welded carbon steel pipes and tubes from Thailand, 25407

Leather wearing apparel from Mexico, 25410

Short supply determinations:

Aluminum-killed cold-rolled steel sheet, 25410

Applications, hearings, determinations, etc.:

University of—

California at Berkeley et al., 25411

Massachusetts Medical Center, 25412

Washington University School of Medicine, 25412

Joint Board for Enrollment of Actuaries**NOTICES**

Meetings:

Actuarial Examinations Advisory Committee, 25440

Land Management Bureau**NOTICES**

Meetings:

Vernal District Advisory Council, 25438

Realty actions; sales, leases, etc.:

Nevada, 25439

Utah, 25438

Survey plat filings:

Idaho; correction, 25446

Withdrawal and reservation of lands:

Nevada, 25439

Management and Budget Office

See Federal Procurement Policy Office

Mine Safety and Health Federal Review Commission

See Federal Mine Safety and Health Review Commission

National Aeronautics and Space Administration**RULES**

Federal Acquisition Regulation (FAR):

Miscellaneous amendments

Correction, 25446

NOTICES

Meetings:

Space Science and Applications Advisory Committee, 25440

National Foundation on the Arts and the Humanities**NOTICES**

Grants and cooperative agreements; availability, etc.:

Opera-musical theater program, 25440

Meetings:

Literature Advisory Panel, 25440

National Institutes of Health**NOTICES**

Meetings:

Animal Resources Review Committee, 25437

National Center for Research Resources, 25436

National Institute on Aging, 25437

National Oceanic and Atmospheric Administration**RULES**

Fishery conservation and management:

Gulf of Mexico shrimp; correction, 25374

NOTICES

Fishery management councils; hearing:

South Atlantic—

Wreckfish; correction, 25413

National Transportation Safety Board**NOTICES**

Meetings; Sunshine Act, 25445

Nuclear Regulatory Commission**NOTICES**

Meetings; Sunshine Act, 25445

Office of United States Trade Representative

See Trade Representative, Office of United States

Personnel Management Office**NOTICES**

Excepted service:

Schedules A, B, and C; positions placed or revoked—
Update, 25441**Postal Service****NOTICES**

Meetings; Sunshine Act, 25445

Public Health Service

See also Alcohol, Drug Abuse, and Mental Health

Administration; Food and Drug Administration; Health
Resources and Services Administration; National
Institutes of Health**RULES**

Grants:

Health professions student loan program
Correction, 25446**NOTICES**

Organization, functions, and authority delegations:

Agency for Health Care Policy and Research, 25437

Centers for Disease Control, 25438

Food and Drug Administration, 25438

Resolution Trust Corporation**RULES**

Affordable housing disposition program; operation, 25352

Rural Electrification Administration**RULES**

Regulatory procedures:

Public information and proposed rules public comments
collection, 25348**Small Business Administration****PROPOSED RULES**

Business loans:

Rural loan program; lenders making guaranteed loans of
less than \$75,000 to small businesses in rural areas,
25378**Social Security Administration****RULES**

Supplemental security income:

Interim assistance reimbursement
Correction, 25446**State Department****PROPOSED RULES**

Visas; immigrant documentation:

Natives of adversely affected foreign states; three-fiscal-
year program, 25386**Technology Administration****RULES**Advanced technology program; implementation; editorial
revision, 25363**Textile Agreements Implementation Committee**See Committee for the Implementation of Textile
Agreements**Trade Representative, Office of United States****NOTICES**

International trade agreements; determinations:

Colombia, 25442

Transportation DepartmentSee Coast Guard; Federal Aviation Administration; Federal
Highway Administration**Treasury Department**

See Customs Service; Internal Revenue Service

United States Information Agency**NOTICES**

Meetings:

Book and Library Advisory Committee, 25443

Veterans Affairs Department**PROPOSED RULES**

Adjudication; pensions, compensation, dependency, etc.:

Incompetent veterans; limitations on compensation
benefits and computation of estate, 25399**Separate Parts In This Issue****Part II**Department of Transportation, Federal Aviation
Administration, 25450**Part III**

Department of Education, 25454

Part IVDepartment of Health and Human Services, Health Care
Financing Administration, 25458**Part V**Department of Health and Human Services, Office of
Community Services, 25492**Part VI**Department of Health and Human Services, Office of
Community Services, 25526**Part VII**Department of Health and Human Services, Office of
Community Services, 25556**Part VIII**

Department of Education, 25578

Part IXDepartment of Agriculture, Cooperative State Research
Service, 25600**Reader Aids**Additional information, including a list of public
laws, telephone numbers, and finding aids, appears
in the Reader Aids section at the end of this issue.

CFR PARTS AFFECTED IN THIS ISSUE

A cumulative list of the parts affected this month can be found in the Reader Aids section at the end of this issue.

7 CFR		Proposed Rules:	
777.....	25345	232.....	25446
1700.....	25348	252.....	25446
1951.....	25350		
1965.....	25350	50 CFR	
Proposed Rules:		658.....	25374
1005.....	25375	Proposed Rules:	
3403.....	25600	23.....	25447
12 CFR			
1609.....	25352		
13 CFR			
Proposed Rules:			
122.....	25378		
14 CFR			
39 (8 documents).....	25353-25362		
121.....	25450		
125.....	25450		
127.....	25450		
129.....	25450		
135.....	25450		
Proposed Rules:			
39 (2 documents).....	25379, 25380		
71 (2 documents).....	25381, 25382		
75.....	25382		
15 CFR			
295.....	25363		
19 CFR			
162.....	25363		
Proposed Rules:			
162.....	25383		
20 CFR			
416.....	25446		
21 CFR			
177.....	25446		
Proposed Rules:			
155.....	25385		
22 CFR			
Proposed Rules:			
43.....	25386		
23 CFR			
Proposed Rules:			
650.....	25392		
26 CFR			
42.....	25364		
602.....	25364		
33 CFR			
117.....	25369		
Proposed Rules:			
117.....	25397		
38 CFR			
Proposed Rules:			
3.....	25399		
13.....	25399		
42 CFR			
412.....	25458		
45 CFR			
57.....	25446		
47 CFR			
43.....	25370		
64.....	25370		
97.....	25372		
Proposed Rules:			
Ch. I.....	25400		
48 CFR			
52.....	25446		

THE PARTS AFFECTED IN THE CASE

A summary of the parts affected in the case of the vessel.

Part	Material	Quantity	Value
1. Main engine	Cast iron	1	1000
2. Piston	Steel	1	500
3. Crankshaft	Steel	1	800
4. Flywheel	Cast iron	1	600
5. Valve gear	Steel	1	400
6. Propeller	Brass	1	300
7. Rudder	Wood	1	200
8. Mast	Wood	1	150
9. Deck	Wood	1	100
10. Hull	Wood	1	500
11. Keel	Wood	1	100
12. Ribs	Wood	1	50
13. Plating	Steel	1	200
14. Paint	Oil	1	50
15. Lubricant	Oil	1	50
16. Tools	Steel	1	100
17. Spare parts	Steel	1	100
18. Miscellaneous	Steel	1	100
19. Total			3500

Rules and Regulations

Federal Register

Vol. 56, No. 107

Tuesday, June 4, 1991

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

DEPARTMENT OF AGRICULTURE

Agricultural Stabilization and Conservation Service (ASCS)

7 CFR Part 777

Disaster Payment Program for 1990 Crops

AGENCY: Agricultural Stabilization and Conservation Service (ASCS), USDA.

ACTION: Final rule.

SUMMARY: Public Law 101-302, the Disaster Emergency Supplemental Appropriations Act for Fiscal Year 1990 (the 1990 Act), provides appropriations for assistance to be made available under section 201(k) of the Agricultural Act of 1949 (the 1949 Act) with respect to eligible producers for losses of 1990 crop production of peanuts, soybeans, sugar beets, and sugarcane damaged by a natural disaster in 1989. Generally, to be eligible to receive a payment, a producer must have suffered a loss of production of at least 40 percent for such crop. A proposed rule was published on February 21, 1991, at 56 FR 6994 with respect to these provisions. This final rule sets forth at 7 CFR part 777 the regulations which are necessary to establish the criteria to be used in making assistance available to eligible producers.

EFFECTIVE DATE: This final rule shall become effective on June 4, 1991.

FOR FURTHER INFORMATION CONTACT: Charles M. Cox, Jr., Program Specialist, Cotton, Grain, and Rice Price Support Division (CGRD), Agricultural Stabilization and Conservation Service (ASCS), United States Department of Agriculture (USDA) PO Box 2415, Washington, DC Telephone: (202) 382-8757.

SUPPLEMENTARY INFORMATION: This final rule has been reviewed under USDA procedures established in

accordance with provisions of Executive Order 12291 and Departmental Regulation No. 1512-1 and has been classified as "non major" since the program will not result in: (1) An annual effect on the economy of \$100 million, or more; (2) a major increase in costs or prices for consumers, individual industries, Federal, State, or local governments, or local geographical regions; or (3) significant adverse effects on competition, employment, investment, productivity, innovation or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

It has been determined that the Regulatory Flexibility Act is not applicable to this final rule since the Commodity Credit Corporation (CCC) is not required by 5 U.S.C. 553 or any other provision of the law to publish a notice of proposed rulemaking with respect to the subject matter of this final rule.

An Environmental Evaluation with respect to the Disaster Payment Program has been completed. It has been determined that this action is not expected to have a significance impact on the quality of the human environment. In addition, it has been determined that this action will not adversely affect environmental factors such as wildlife habitat, water quality, air quality, and land use and appearance. Accordingly, neither an Environmental Assessment nor an Environmental Impact Statement is needed.

The title and number of the Federal assistance program to which this notice applies are: Title—commodity Loans and Purchases; Number 10.051, as found in the Catalogue of Federal Domestic Assistance.

This program/activity is not subject to the provisions of Executive Order 12372 which requires intergovernmental consultation with State and local officials. See the Notice related to 7 CFR part 3015, subpart V, published at 48 FR 29115 (June 24, 1983). Public reporting burden for these collections is estimated to require 30 minutes per response, including time for reviewing instructions, searching existing sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this

collection of information, including suggestions for reducing this burden, to Department of Agriculture, Clearance Officer, OIRM, room 404-W, Washington, DC 20250; and to the Office of Management and Budget, Paperwork Reduction Project, (0560-0050) Washington, DC 20503. OMB approval for the information collections contained in this rule expires June 30, 1991. ASCS is in the process of requesting an extension of this date.

Background

The 1990 Act provides \$11,000,000 for the making of disaster payments, as provided in section 201(k) of the 1949 Act for production losses to producers of 1990 crops of peanuts, soybeans, sugar beets, and sugarcane which were affected by a natural disaster in 1989. To receive such a payment, the loss of production of a crop must be greater than 40 percent of the farm's expected production. With respect to sugarcane, such losses are made on a recoverable sugar basis.

The 1949 Act establishes the basic payment rate which is to be used in making disaster payments as 50 percent of the support level for the crop. Since the appropriation provided for in the 1990 Act was \$11,000,000 the total payments for all producers are limited to \$11,000,000. Generally, the proposed rule provided that the farm yield would be determined by using a 3 year average of sugar actually produced on the farm per acre for the years 1987, 1988, and 1989 or using the National Agricultural Statistical Service (NASS) data for the years 1985 through 1990 dropping the highest and the lowest. Also, the proposed rule provided that producers who obtained crop insurance for the 1990 crop of a commodity under the Federal Crop Insurance Act, as amended, would have their disaster payment reduced by the amount by which the sum of the net crop insurance benefits (gross indemnity less premium paid) and the computed disaster payment exceeds the disaster payment acreage times the disaster yield times the basic payment rate for the commodity. In addition, in the event the total claims submitted exceed \$11,000,000, all claims would be reduced proportionately. Due to the limited amount of funds provided, and due to the restriction that such funds be used only with respect to 1989 disasters

which affected 1990 crop production, ASCS proposed that assistance be limited to 1990 crops damaged by frost or freeze in 1989. This proposal was based upon the determination by ASCS that no other disaster occurred in 1989 which damaged 1990 crops of soybeans, sugar beets, sugarcane and peanuts. Further, based upon this review, ASCS is not aware of any 1990 crop of these commodities other than sugarcane which was adversely affected by such 1989 natural disaster. In addition, with the limited amount of funds made available, ASCS has sufficient reason to believe that claims for assistance will exceed \$11 million and will, therefore, result in the reduction of payments made to eligible producers. Accordingly, the proposed rule provides for the reduction of payments in the event the total amount of eligible claims exceed \$11,000,000.

In response to the proposed rule issued on February 21, 1991, (56 FR 6994) 18 timely filed letters containing 22 comments were received. Respondents included the following: 11 individuals, 2 corporations, 4 farm organizations, 1 cooperative. Fifteen of the letters were received from residents of Louisiana and 3 letters from residents of Texas. One comment was not responsive to the proposed rule and therefore, is not addressed below.

Section 777.3 Definition (Disaster Payment Yield)

Comments were received from 2 respondents on this section of the proposed rule. One respondent commented that, as set forth in the proposed rule, using the 5 year NASS average of actual sugar production, dropping the highest and lowest yield, would be more equitable. This same respondent suggested that the NASS data used should be based on all acreage including the acreage used for seed cane. The other respondent wanted to use only 3 years of actual sugar production for determining the disaster payment yield. This suggestion is not adopted since ASCS and the Commodity Credit Corporation have historically used this 5 year method which provides producers with a more representative yield on the farm since large variances may occur in one year due to abnormal weather conditions; however, this provision has been rewritten for clarity.

Section 773.3 Definitions (Eligible Crop)

One respondent requested that soybeans be included in the list of eligible crops and one respondent wanted all crops included or, in the event all crops were not included, this

respondent wanted coverage denied with respect to all crops. Section 201(k) of the 1949 Act specifically includes only sugar beets, sugarcane, soybeans, and peanuts as eligible crops. Accordingly, the final rule includes only these crops. Further, since Congress has appropriated funds for the assistance provided by this section of the 1949 Act, ASCS must make payments to producers of only these crops. Accordingly, this provision of the proposed rule is adopted without change.

Section 777.3 Definitions (Eligible Producer)

Comments were received from 13 respondents (8 individuals, 1 cooperative, and 4 commodity groups) on this section of the proposed rule. The proposed rule restricted eligibility of disaster benefits to only those producers who were producers on the farm at the time of the 1989 freeze and shared in the 1990 harvested crop which suffered a production loss. The commenters suggested that the Department's definition of an eligible producer "who is on the farm at the time of the 1989 freeze and who also harvested the 1990 crop" is too restrictive. Many of the commenters suggested that the producer on the farm on the date of the freeze should be eligible for the payments regardless of whether they were on the farm in 1990. It was also pointed out that the farm owner who received a share of the crop should be entitled to a disaster payment. One respondent suggested that if the producer on the farm at the time of the disaster was different than the producer who harvested sugarcane and that the producer who harvested the sugarcane and the producers cannot agree as to whom the payments should be made then the payments shall be made "jointly to such producers". In response to these comments the final rule provides that producers who shared in the crop for either or both 1989 and 1990 are eligible. In cases where the producers do not agree on the share of payment the producer who suffered the loss will be paid as determined by the County Agricultural Stabilization and Conservation Committee.

Section 777.6 Filing application for payment

The proposed rule provided that all applications for assistance must be filed by May 1, 1991. Since this date has passed, the final rule provides that all such applications must be filed by June 28, 1991.

Section 777.7 Report of acreage, production disposition, and indemnity payments

Section 777.7(b) of the proposed rule provides that the producer must furnish acceptable evidence of the disposition of crop production or authorize CCC to obtain such information. Comments were received from American Sugar Cane League requesting that the following changes be made in this section. "If there has been a disposition of crop production through commercial production channels, the eligible producer must furnish, or authorize CCC to obtain documentary evidence of such disposition in the form of records of sugar production from the applicable processor or processors." This section has been rewritten for clarity; however, ASCS has determined that the suggested changes would be too restrictive and would not allow ASCS to adequately determine the actual production of eligible producers. Accordingly, the suggested changes are not adopted.

Section 777.8 Availability of funds

Comments were received from 2 respondents. One respondent requested in the event all claims submitted are less than \$11,000,000, that each payment be increased by a uniform percentage. The other respondent suggested that we should spend the entire amount appropriated. ASCS does not have statutory authority to make payments at a rate which is in excess of the statutory formula. Accordingly, these comments are not adopted.

List of Subjects in 7 CFR Part 777

Disaster payment 1990 crops.

Final rule

Accordingly, 7 CFR part 777 is added to read as follows:

PART 777—DISASTER PAYMENT PROGRAM FOR 1990 CROP OF SUGARCANE, SUGAR BEETS, SOYBEANS AND PEANUTS

Sec.	
777.1	General statement.
777.2	Administration.
777.3	Definitions.
777.4	Availability of disaster payments.
777.5	Disaster benefits.
777.6	Filing application for payment.
777.7	Report of acreage, production disposition, and indemnity payments.
777.8	Availability of funds.
777.9	Misrepresentation, scheme and device, and fraud.
777.10	Refunds to CCC.
777.11	Cumulative liability.
777.12	Appeals.
777.13	Liens.
777.14	Other regulations.

Sec.

777.15 OMB control numbers assigned pursuant to the Paperwork Reduction Act.

Authority: 7 U.S.C. 1446.

§ 777.1 General statement.

This part implements a Disaster Payment Program for the 1990 crop year as provided by section 201(k) of the Agricultural Act of 1949, as amended, and Dire Emergency Supplemental Appropriations Act for Fiscal year 1990. The purpose of the program is to make disaster payments to eligible producers of sugarcane, sugar beets, peanuts and soybeans who have suffered a loss of production of their 1990 crop as the result of a natural disaster in 1989.

§ 777.2 Administration.

(a) The program will be administered under the general supervision of the Administrator, Agricultural Stabilization and Conservation Service (ASCS), and shall be carried out in the field by State and county Agricultural Stabilization and Conservation (ASC) committees.

(b) State and county ASC committees and representatives and employees thereof do not have the authority to modify or waive any of the provisions of this part as amended or supplemented.

(c) The State ASC committee shall take any action required by this part which has not been taken by a county ASC committee. The State ASC committee shall also:

(1) Correct or require a county ASC committee to correct, any action taken by such county ASC committee which is not in accordance with this part, or

(2) Require a county ASC committee to withhold taking any action which is not in accordance with this part.

(d) ASCS shall determine all yields and prices under this part and may utilize any agency of the Department of Agriculture in making such determinations. To the extent practicable, ASCS will use data provided by the National Agricultural Statistical Service (NASS). Any reference in this part to NASS shall not restrict ASCS from using data from other sources.

(e) No delegation herein to a State or county ASC committee shall preclude the Administrator, ASCS, or a designee, from determining any question arising under the program or from reversing or modifying any determination made by a State or county ASC committee.

§ 777.3 Definitions.

In determining the meanings of the provisions of this part, unless the context indicates otherwise, words imparting the singular include and apply to several persons or things, words

imparting the plural include the singular, words imparting the masculine gender include the feminine as well, and words used in the present tense include the past and future as well as the present. The following terms shall have the following meanings and all other words and phrases shall have the meanings assigned to them in the regulations governing the reconstitution of farms in part 719 of this chapter.

Actual production means the quantity of soybeans and peanuts actually harvested and in the case of sugar beets and sugarcane the quantity of sugar produced from such crop, or which could have been harvested or produced as determined by the county ASC committee in accordance with instructions issued by the Deputy Administrator, State and County Operations (Deputy Administrator), (ASCS). Such quantity includes all harvest acreages including sugarcane harvested for seed.

Disaster payment yield means as applicable, the average of actual yields for the years 1987 through 1989 in accordance with instructions issued by the Deputy Administrator or the county average yield for the crop, established by ASCS. Such county average yield shall be the average of the county average yields, including seed cane production, for the years 1985 through 1989 as determined by NASS, excluding the year in which the yield was the highest and the year in which the yield was the lowest.

Eligible crop means the 1990 crop of sugarcane, sugar beets, soybeans and peanuts.

Eligible disaster means a December 1989 frost or freeze.

Eligible producer means, with respect to an eligible crop for which an application for disaster payment has been made under this part, a person who as owner, landlord, tenant, or sharecropper is entitled to share in such crops, or the proceeds therefrom, available for marketing from the farm or would have been if such crop had been produced. Such person includes the producer who was on the farm at the time of the 1989 freeze and who may or may not have been the producer who harvested the 1990 crop.

Expected production means the disaster yield times the sum of the 1990 planted acreage of the crop and the 1990 prevented planted acreage of the crop.

§ 777.4 Availability of disaster payments.

Disaster payments will be made available to eligible producers of 1990 crop of an eligible crop who suffered losses because of the occurrence of an eligible disaster in 1989.

§ 777.5 Disaster benefits.

(a) Disaster payments for low yield losses on 1990 crop of sugarcane are authorized to be made to producers who file a CCC-441SU, Application for 1990 Disaster Benefits, if:

(1) The farm operator submits an Application for Disaster Credit (Form ASCS-574), in accordance with instructions issued by the Deputy Administrator;

(2) The farm operator submits a record of Production and Yield (Form ASCS-658) in accordance with § 1477.7; and

(3) The county ASC committee determines that because of an eligible disaster condition, producers on a farm were able to harvest less than 60 percent of the expected production of an eligible crop in 1990.

(b) Each eligible producer's share of a disaster payment shall be based on the eligible producer's share of the crop or the proceeds therefrom or, if no crop was produced, the share which the eligible producer would have otherwise received if the crop had been produced.

§ 777.6 Filing application for payment.

(a) Applications for payment shall be filed by the applicant with the county ASCS office serving the county where the producer's farm is located for administrative purposes.

(b) An application for payment shall be filed as soon as practicable after the producer's eligibility has been established in accordance with § 777.5(a). Applications for payment must be filed no later than June 28, 1991.

§ 777.7 Report of acreage, production disposition and indemnity payments.

(a) Eligible producers shall report, in accordance with instructions issued by the Deputy Administrator, the acreage, production, and disposition of all eligible crops produced in 1990 on an acreage for which an application for a disaster payment is filed. Such production reports must be filed no later than the date established by the Deputy Administrator.

(b) If there has been a disposition of crop production through commercial channels, the eligible producer must furnish documentary evidence of such disposition or provide ASCS the authority necessary in order to verify the information provided on the report. Such authority includes access to producers' disposition documents of warehousemen and processors. Acceptable evidence shall include, but not limited to, such items as the original or a copy of commercial receipts, CCC

loan documents, settlement sheets, or records of sugar production.

(c) If there has been a disposition of crop production other than through commercial channels, such as seed cane, the eligible producer must furnish such documentary evidence as the county ASC committee determines to be necessary in order to verify the information provided by the producer.

§ 777.8 Availability of funds.

In the event the total amount of all claims submitted exceeds \$11 million, each payment shall be reduced by a uniform percentage.

§ 777.9 Misrepresentation, scheme and device, and fraud.

(a) If ASCS determines that any producer has erroneously represented any fact or has adopted, participated in, or benefited from, any scheme or device which has the effect of defeating, or is designed to defeat the purpose of this part, such producer shall not be eligible for disaster payments under this part and all payments previously made to any such producer shall be refunded to ASCS. The amount paid to ASCS shall include any interest and other amounts as determined in accordance with this part.

(b) If any misrepresentation, scheme or device, or practice has been employed for the purpose of causing ASCS to make a payment which ASCS under this part otherwise would not make, all amounts paid by ASCS to any such producer shall be refunded to ASCS together with interest and other amounts as determined in accordance with this part, and no further disaster payments shall be made to such producer by ASCS.

(c) If the county ASC committee determines that any producer has adopted or participated in any practice which tends to defeat the purpose of the program established in accordance with this part, the county committee shall withhold or require to be refunded all or part of the payments which otherwise would be due the producer under this part.

§ 777.10 Refunds to CCC.

(a) In the event that there is a failure to comply with any term, requirement, or condition for payment made in accordance with this part, all such payments made to the producer shall be refunded to ASCS, together with interest.

(b) Producers must refund to ASCS any excess payments made by ASCS.

(c) In the event that the loss of production was established as a result of erroneous information provided by

any person to the county ASCS office or was erroneously computed by such office, the loss of production shall be re-computed and the payment due shall be corrected as necessary. Any refund of payments which are determined to be required as a result of such re-computation shall be remitted to ASCS.

§ 777.11 Cumulative liability.

The liability of any producer for any payment or refund which is determined in accordance with this part to be due to ASCS shall be in addition to any other liability of such producer under any civil or criminal fraud statute or any other statute or provision of law including, but not limited to, 18 U.S.C. 286, 287, 371, 641, 1001; and 31 U.S.C. 3729.

§ 777.12 Appeals.

Reconsideration and review of all determinations made in accordance with this part with respect to a farm or an individual producer shall be made in accordance with part 780 of this chapter.

§ 777.13 Liens.

Any payment which is due any person shall be made without regard to questions of title under State law and without regard to any claim or lien against the crop, and the proceeds thereof, which may be asserted by any creditor, except agencies of the United States Government.

§ 777.14 Other regulations.

The following regulations and amendments thereto shall also be applicable to this part:

(a) 7 CFR Part 3, Debt Management.

(b) 7 CFR Part 12, Highly Erodible Land and Wetland Conservation.

(c) 7 CFR Part 707, Payments Due Persons Who Have Died, Disappeared or Have Been Declared Incompetent.

(d) 7 CFR Part 719, Reconstitution of Farms, Allotments, Normal Crop Acreage and Preceding Year Planted Acreage.

(e) 7 CFR Part 780, Appeal Regulations.

(f) 7 CFR Part 790, Incomplete Performance Based Upon Action or Advice of an Authorized Representative of the Secretary.

(g) 7 CFR Part 796, Denial of Program Eligibility for Controlled Substance Violation.

§ 777.15 OMB control numbers assigned pursuant to the Paperwork Reduction Act.

The information collection requirements of this part shall be submitted to the Office of Management and Budget (OMB) for purposes of the Paperwork Reduction Act and it is anticipated that an OMB Number will be assigned.

Signed at Washington, DC, on May 29, 1991.

Keith D. Bjerke,

Administrator, Agricultural Stabilization and Conservation Service.

[FR Doc. 91-13120 Filed 6-3-91; 8:45 am]

BILLING CODE 3410-05-M

Rural Electrification Administration

7 CFR Part 1700

Public Information and Collection of Public Comments to Proposed Rules

AGENCY: Rural Electrification Administration, USDA.

ACTION: Final rule.

SUMMARY: The Rural Electrification Administration (REA) hereby amends 7 CFR part 1700 to revise policies on public information and collection of public comments to proposed rules. This final rule will (1) assist the Agency to modernize and streamline policies and procedures that will provide an efficient information system that directly affects REA borrowers and others, and (2) assist the Agency to respond to comments from the public on proposed rules published in the Federal Register. This final rule will benefit both the public and the Agency. Pursuant to 7 CFR part 1610, the provisions of this final rule also apply to the Rural Telephone Bank (RTB).

EFFECTIVE DATE: July 5, 1991.

FOR FURTHER INFORMATION CONTACT:

Mr. Curtis L. Bryant, Director, Administrative Services Division, Rural Electrification Administration, room 0165, South Building, U.S. Department of Agriculture, Washington, DC 20250, telephone number (202) 382-8940.

SUPPLEMENTARY INFORMATION: This final rule is issued in conformance with Executive Order 12291. It will not (1) have an annual effect on the economy of \$100 million or more; or (2) result in a major increase in costs or prices for consumers, individuals, industries, Federal, state, or local government agencies or geographic regions; or (3) result in significant adverse effects on competition, employment, or productivity. Therefore, this rule has been determined to be non-major.

This action does not fall within the scope of the Regulatory Flexibility Act. REA has concluded that promulgation of this final rule will not represent a major Federal action significantly affecting the quality of the human environment under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.* (1976)) and, therefore, does not require an

environmental impact statement or an environmental assessment. This program is listed in the Catalog of Federal Domestic Assistance under No. 10.850, Rural Electrification Loans and Loan Guarantees; 10.851, Rural Telephone Loans and Loan Guarantees; 10.852, Rural Telephone Bank Loans; and 10.853, Rural Economic Development Loans and Grants.

For reasons set forth in 7 CFR part 3015, subpart V (50 FR 47034), this program is excluded from the scope of Executive Order 12373 regarding intergovernmental consultation with State and local officials.

According to the regulations of the Office of Management and Budget (OMB), 5 CFR 1320.7(j)(4), "Facts or opinions submitted in response to general solicitations of comments from the public, published in the *Federal Register* * * * are not generally considered information subject to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*). Therefore, this rule contains no reporting or recordkeeping provisions that require OMB approval under the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*).

Background

Pursuant to the Rural Electrification Act of 1936 (49 Stat. 1363; 7 U.S.C. 901 *et seq.*) (the RE Act), as amended, the Rural Electrification Administration (REA) issues notices and regulations in the *Federal Register*, as well as bulletins, informational publications, and instructions to staff in order to (1) implement the provisions of the RE Act and the loan and security instruments; (2) establish Agency procedures; and (3) assist electric and telephone borrowers in the operation, design, and maintenance of their systems. Historically, many Agency policies and procedures have been contained in bulletins and manuals.

Several years ago, REA began to codify material that was found in REA Bulletins in the Code of Federal Regulations (CFR). Issuance of new policies and procedures, and revisions of existing regulations will be published in the daily *Federal Register*. Because the CFR is becoming the primary document on which the public and borrowers will rely, the original concept of Bulletins and other Agency publications is changing. Bulletins directed to borrowers in the future will not contain policy issues they had previously contained. Additionally, codification of material now found in Bulletins will allow the Agency to rescind many Bulletins which are obsolete or duplicative. This will

eventually mean fewer Bulletins directed to borrowers.

The Agency now distributes Bulletins to borrowers and others interested in the program. Over the years, it has become difficult to maintain mailing lists of, or to identify, non REA borrowers who may have continuing interest in REA programs. With the changing nature of Bulletins and the choice of the CFR as the vehicle to communicate REA policy to the public, it is no longer necessary to maintain mailing lists of, and to distribute information to non REA borrowers. The *Federal Register* provides better public access to Agency information in a more timely manner because of its wider availability.

REA will continue to provide indexes of Agency publications in reply to Freedom of Information Act requests (5 U.S.C. 552(a)(2)). The Agency will provide single copies of individual bulletins and informational publications to borrowers and other members of the public either directly or from another source to be established by REA. Every effort will be made to keep costs to the government and the public as low as possible. The Agency does not plan to charge REA borrowers for initial copies of bulletins directed to them. Information about availability and cost of any REA publication may be obtained from the Publications and Directives Management Branch, Administrative Services Division, Rural Electrification Administration, room 0180, South Building, U.S. Department of Agriculture, Washington, DC 20250, telephone number (202) 382-9551. REA publications are not copyright protected and may be reproduced.

REA requires a signed original and three copies of all comments in order to respond to information requests submitted to proposed rules, and to provide copies of these comments to the public in a cost effective, convenient, and timely fashion. Persons requesting copies of comments to proposed rules will be charged in conformance with 7 CFR part 1, appendix A.

REA published a proposed rule on this subject on January 2, 1991 (56 FR 32). One comment was received during the 60 day comment period. It supports the proposed revision to section 1700.30.

List of Subjects in 7 CFR Part 1700

Electric power, Freedom of information, Loan programs—communications, Loan programs—energy, organization and functions (Government agencies), Rural areas, Telephone.

For the reasons stated above, REA hereby amends 7 CFR part 1700 as follows:

1. The authority citation for part 1700 continues to read as follows:

Authority: 7 U.S.C. 901-950(b); Delegation of Authority by the Secretary of Agriculture, 7 CFR 2.23; Delegation of Authority by the Under Secretary for Small Community and Rural Development, 7 CFR 2.72; 7 U.S.C. 1921 *et seq.*, and 44 FR 30313, May 25, 1979; 5 U.S.C. 301, 552; 7 CFR 1.1-1.16.

2. REA amends part 1700 by revising § 1700.30 to read as follows:

§ 1700.30 Availability of Agency publications and other information, and collection of public comments to proposed rules.

(a) 5 U.S.C. 552(a)(2) requires that certain materials be made available for public inspection and copying.

(b) The Rural Electrification Administration (REA) issues from time to time notices and regulations in the *Federal Register* as well as bulletins, informational publications, and staff instructions in order to:

(1) Implement the provisions of the RE Act and the loan and security instruments;

(2) Establish Agency procedures; and

(3) Assist electric and telephone borrowers in the design, operation, and maintenance of their systems.

(c) Information about availability and costs of Agency publications and other Agency materials is available from Publications and Directives Management Branch, Administrative Services Division, Rural Electrification Administration, Room 0180, South Building, U.S. Department of Agriculture, Washington, DC 20250-1500.

(d) REA will provide for the distribution of indexes of publications in conformance with the Freedom of Information Act, 5 U.S.C. 552(a)(2). Single copies of individual bulletins, informational publications, staff instructions, and forms, including forms of basic loan and security instruments, are available to borrowers and other members of the public either directly from REA, from the Superintendent of Documents, U.S. Government Printing Office, Washington DC 20402, or from another source to be established by REA. Costs for these publications are established in conformance with 7 CFR part 1. Initial copies of Bulletins directed to REA borrowers are provided at no cost to those borrowers.

(e) REA requires that all persons submitting comments to a proposed rule published by the Agency submit a signed original and three copies of their

comments to the address shown in the preamble to the proposed rule. Copies of comments submitted are available to the public in conformance with 7 CFR part 1.

Dated: May 9, 1991.

Gary C. Byrne,
Administrator.

[FR Doc. 91-13017 Filed 6-3-91; 8:45 am]
BILLING CODE 3410-15-M

Farmers Home Administration

7 CFR Parts 1951 and 1965

Security Servicing for Multiple Family Housing Loans

AGENCY: Farmers Home Administration, USDA.

ACTION: Final rule.

SUMMARY: The Farmers Home Administration (FmHA) amends its multiple family housing security servicing regulations. This action is being taken to clarify the consolidation section, to change the effective interest rate to be used for new term transfers and reamortizations, and to revise the reamortizations section to include reamortizations with cost items. This action is necessary to clarify current instructions.

EFFECTIVE DATE: July 5, 1991.

FOR FURTHER INFORMATION CONTACT: Wanda L. Triplett, Senior Loan Specialist, Multiple Family Housing Servicing and Property Management Division, Farmers Home Administration (FmHA), USDA, room 5333, South Agriculture Building, 14th and Independence SW., DC 20250, telephone (202) 382-1612.

SUPPLEMENTARY INFORMATION:

Classification

This action has been reviewed under USDA procedures established in Departmental Regulation 1512-1, which implements Executive Order 12291, and has been determined to be non-major because there will not be an annual effect on the economy of \$100 million or more; a major increase in cost or prices for consumers, individual industries, Federal, State, or local government agencies or geographic regions; or significant adverse effects on competition, employment, investment, productivity, innovation or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

FmHA published proposed regulations governing consolidation and transfer of Multiple Family Housing loans in the

Federal Register on December 28, 1989, (54 FR 53326), providing that interested persons could file comments through February 26, 1990.

We received comments on § 1965.68, "Consolidation," from three FmHA employees, one of which was not received prior to the deadline for receiving comments and which the commenter later requested be withdrawn.

One commenter suggested that loan consolidation include consolidating an initial and subsequent loan(s) in a project where the loans were closed on the same day at the same rates and terms. Paragraphs (a)(1) through (a)(4) of the proposed regulation have been restructured to include this provision.

The commenter also requested an item be added to read "If consolidation of loans is not possible on the Amortization Effective Date (AED) for the loans, consolidation should occur as soon as possible after the AED is established." We agree and have added paragraph (a)(6) as recommended.

The commenter requested paragraph (b)(1) include the statement, "or as soon as possible thereafter" on original notes or assumption agreements not in the District Office. This was due to the time involved in obtaining an affidavit of replacement for lost notes (sometimes up to 1 year). We believe this is justifiable and delay of the consolidation would not be beneficial to the parties involved.

The commenter recommended that paragraph (b)(2) include clarification of the Interest Credit Plan and to delete submitting this form to the Finance Office since this information is now entered through field office terminals. We agree and this paragraph has been changed accordingly.

The commenter noted that paragraph (b)(3) refers to Form FmHA 1965-17A and this should be Form FmHA 1965-17, which deals with loan consolidation and not project consolidation. We agree and have included this modification. In addition, Form FmHA 1965-17 is being revised to include consolidation of initial and subsequent loan(s) where the loans were closed on the same date at the same rates and terms.

The commenter noted that original notes are never filed in the casefiles and paragraph (b)(4) should be revised to reflect this change. This paragraph is being changed accordingly.

The commenter believes paragraph (c)(3) should be revised to include "mixed" projects as eligible for project consolidation. Since the original intent of the units is not changed, we agree to this change and the subject paragraph is revised accordingly.

The final commenter did not believe that the proposed regulations covered "project consolidation" whereby the borrower could combine the payments and use the rental assistance (RA) for either project without combining the loan agreement/resolution. The commenter believed this was a Finance Office transaction and would not require OGC concurrence. The main reason for this transaction would be to use rental assistance in a project that did not contain this subsidy. We believe this would be in violation of the intent of the regulations covering loan agreement/resolution consolidation, which is the same as "project consolidation." If RA is not needed in one project, the State Director may transfer the RA to another project in accordance with exhibit E of subpart C of part 1930 of this chapter.

Environmental Impact Statement

This document has been reviewed in accordance with 7 CFR part 1940, subpart G, "Environmental Program." It is the determination of FmHA that this action, consisting only of accounting changes, does not constitute a major Federal action significantly affecting the quality of the human environment, and, in accordance with the National Environmental Policy Act of 1969, Public Law 91-120, an Environmental Impact Statement is not required.

Regulatory Flexibility Act

This final rule has been reviewed with regard to the requirements of the Regulatory Flexibility Act (5 U.S.C. 601-612). The undersigned has determined and certified by signature of this document that this rule will not have a significant economic impact on a substantial number of small entities since this rulemaking action does not involve a new or expanded program.

Intergovernmental Consultation

For the reasons set forth in the Final Rule related Notice(s) to 7 CFR part 2015, subpart V, programs 10.415, Rural Rental Housing Loans and 10.427, Rural Rental Assistance Payments, are subject to Executive Order 12372, which requires intergovernmental consultation with State and local officials.

Programs Affected

These changes affect the following FmHA programs as listed in the Catalog of Federal Domestic Assistance: 10.405 Farm Labor Housing Loans and Grants 10.415 Rural Rental Housing Loans.

List of Subjects in 7 CFR Parts 1951 and 1965

Accounting servicing, administrative practice and procedure, Grant program—housing and community development, low- and moderate-income housing—Rental, Mortgages, Reporting and recordkeeping requirements, and Rural areas.

Therefore, chapter XVIII, title 7, Code of Federal Regulations is amended as follows:

PART 1951—SERVICING AND COLLECTIONS

1. The authority citation for part 1951 continues to read as follows:

Authority: 7 U.S.C. 1989; 42 U.S.C. 1480; 5 U.S.C. 301; 16 U.S.C. 1005; CFR 2.33; 7 CFR 2.70.

Subpart E—Servicing of Community and Insured Business Programs Loans and Grants**§ 1951.223 [Amended]**

2. Section 1951.223(b)(4) and the second sentence of (c)(3), are amended by changing the reference "Form FmHA 451-33" to "Form FmHA 1951-33."

PART 1965—REAL PROPERTY

3. The authority citation for part 1965 continues to read as follows:

Authority: 7 U.S.C. 1989; 42 U.S.C. 1480; 5 U.S.C. 301; CFR 2.33; 7 CFR 2.70.

Subpart B—Security Servicing for Multiple Housing Loans

4. Section 1965.65 is amended by revising the last sentence of paragraph (f)(2) and the first sentence of paragraph (f)(6)(i) to read as follows:

§ 1965.65 Transfer of real estate security and assumption of loans.

• • • • •

(f) • • • • •

(2) • • • • • If the loan account or the reserve account cannot be brought current, or less than the total debt is assumed, the transfer will be closed on new terms and the interest rate charged by FmHA will be the current rate being charged for those loans at the time of loan closing, or the interest rate at the time of approval (the date Form FmHA 1944-51 is approved), whichever is less.

• • • • •

(6) • • • • •

(i) The interest rate charged for all loans, except LH loans, will be the current rate being charged for those loans at the time of loan closing, or the interest rate at the time of approval (the

date Form FmHA 1944-51 is approved), whichever is less. • • • • •

• • • • •

5. Section 1965.68 is revised to read as follows:

§ 1965.68 Consolidation.

General. Loans and/or loan agreements/resolutions may be consolidated to reduce the administrative burden (recordkeeping, budgeting, etc.), to improve the cost effectiveness and efficiencies of project operations, and/or to effectively utilize the physical facilities common to projects. State Directors may approve the consolidations with the advice of OGC and when the following conditions are met:

(a) *Consolidation of loans.*

(1) The loans are being transferred under § 1965.65(f)(6) of this subpart on new terms to the transferee, OR.

(2) An initial and subsequent loan(s) under one project number were closed on the same date at the same rates and terms, i.e., same interest rate and final due date.

(3) The promissory notes and the loan agreements/resolutions will be consolidated.

(4) The conditions for consolidation of loan agreements/resolutions must be met.

(5) The total indebtedness (principal plus accrued interest, overage and late fees) of all loans being consolidated does not exceed the State Director's approval authority.

(6) If consolidation of loans is not possible on the Amortization Effective Date (AED) for the loans, consolidation should occur as soon as possible after the AED is established.

(b) *Processing consolidation of loans.*

(1) Form FmHA 1944-52, "Multiple Family Housing Promissory Note," will be prepared for the notes or assumption agreements being consolidated according to the FMI. If the District Office does not have possession of the original note or assumption agreement, the District Director will call the Finance Office to request the return of the original form so it is in the District Office before a new Form FmHA 1944-52 is processed, or as soon as possible thereafter. Promissory notes should be prepared on a monthly payment basis, as appropriate.

(2) A new Form FmHA 1944-7, "Interest Credit and Rental Assistance Agreement," will be prepared and signed by the borrower for the new consolidated promissory note and distributed according to the FMI. The Interest Credit Plan originally established for the project will apply to the consolidated note. If the Interest

Credit Plan is changed with the new Form FmHA 1944-7, the District Office will enter the new plan for the project through their field office terminal.

(3) Form FmHA 1965-17, "Multiple Family Housing Note Consolidation," will be completed to show all of the notes which have been consolidated in the new Form FmHA 1944-52. A copy of the completed Form FmHA 1965-17 will be sent to the Finance Office for processing. The AMAS M5A screen for the project should be reviewed by the District Office and updated, as appropriate, when submitting Form FmHA 1965-17 for processing.

(4) The original and District Office copies of all notes or assumption agreements that are consolidated will be stamped "consolidated," by the District Office. The original instruments being consolidated will be stapled to the "consolidated" note and filed in the safe in the District Office. When the consolidated note has been paid in full or otherwise satisfied, it and all other instruments will be handled according to the provisions of § 1951.15 of subpart A of part 1951.

(5) A consolidated loan agreement or resolution using Forms FmHA 1944-33A, "Consolidated Loan Agreement RRH Insured Loan to an Individual Operating on a Profit Basis or RRH Loan to an Individual Operating on a Limited Profit Basis," FmHA 1944-34A, "Consolidated RRH Loan Agreement To a Partnership Operating on a Profit Basis, To a Limited Partnership Operating on a Profit Basis, To a Partnership Operating on a Limited Profit Basis, To a Limited Partnership Operating on a Limited Profit Basis," or FmHA 1944-35A, "Consolidated Loan Resolution RRH Loan to a Broadly Based Nonprofit Corporation, RRH Loan to a Profit Type Corporation, RRH Loan to Profit Type Corporation Operating on a Limited Profit Basis," as appropriate, will be prepared for RRH loans to reflect current reporting requirements and the authorized initial investment attributable to the owner after the consolidation has occurred. A revised consolidated loan agreement or resolution will be prepared for LH loans containing the requirements of exhibit C, D, or E of subpart D of part 1944 of this chapter, as appropriate.

(6) Consolidation of notes will only be accomplished with the guidance and assistance of OGC. Under no circumstances will promissory notes be consolidated if the security position of FmHA will be adversely affected.

(7) New security instruments which describe the consolidated note will be filed to perfect the FmHA lien position. If the new lien position taken is junior

only to the previous lien position securing the loans being consolidated, the previous security instruments may be released with the guidance and assistance of OGC.

(c) *Consolidation of loan agreements/resolutions (project consolidation).*

(1) The security for the loans must be on the total project, "project" being defined per Subpart C of Part 1930 of this chapter.

(2) The State Director may approve the consolidation of loan agreements/resolutions irrespective of the total indebtedness represented by all loan agreements/resolutions being consolidated.

(3) The loan agreements being consolidated are for loans made for the same purpose (for example, loans specifically made for senior citizen projects cannot be consolidated with loans for family projects, unless the consolidated project is redesignated "mixed" and the units previously designated "senior citizen" are restricted to tenants meeting the requirements for "senior citizen" as specified in Subpart C of Part 1930 of this chapter), to the same borrower entity and have the same plan of operation (nonprofit, limited profit or full profit), and are operating under the same type of Interest Credit, if applicable.

(4) The requirements of subpart C of part 1930 of this chapter concerning reporting, accounting and project management will be fulfilled as a single project.

(5) All project accounts being consolidated must be current after the consolidation processes, unless authorized by the National Office.

(6) RA agreements will not be consolidated; each RA agreement will be tracked under a separate RA number through AMAS. The RA can be assigned to eligible tenants in the new "project" per assignment priorities. The waiting list(s) for the projects being consolidated will be combined.

(7) The appropriate restrictive-use language set forth in § 1965.90(b)(2)(i) of this subpart for RRH, RCH or LH loans will be added to those loans not previously subject to restrictive use, with the advice of OGC, to the loan agreement/resolution as a condition of FmHA approval of the project consolidation. The restrictive-use period will begin on the date the consolidation is effective for loans not previously subject to restrictive-use provisions.

(d) *Processing loan agreement/resolution consolidations.*

(1) Form FmHA 1965-17A will be completed to show all of the notes for the projects being consolidated. The

AMAS M5A screen for all projects should be reviewed and updated before submitting Form FmHA 1965-17A.

(2) A consolidated loan agreement or resolution using Form FmHA 1944-33A, 1944-34A, or 1944-35A, as appropriate, will be prepared for RRH loans to reflect current reporting requirements and the authorized initial investment attributable to the owner after the consolidation has occurred. A revised consolidated loan agreement or resolution will be prepared for LH loans containing the requirements of exhibit C, D, or E of subpart D of part 1944 of this chapter, as appropriate.

(3) Consolidation of projects will only be accomplished with the guidance and assistance of OGC. Under no circumstances will projects be consolidated if the security position of FmHA will be adversely affected.

(4) All of the general requirements of paragraph (c) of this section must be met.

(5) Neither the terms nor the due date of the loan(s) involved are altered, and other security instruments remain unchanged, and are not released.

(6) All of the loan agreements or loan resolutions being consolidated may be secured by one deed of trust or mortgage describing all of the loans for the projects if required by OGC.

6. Section 1965.70 is amended by revising paragraph (d)(5) and by adding paragraphs (b)(3) (ix), (x), (xi) and (d)(9) to read as follows:

§ 1965.70 *Reamortization.*

* * * * *

(b) * * *

(3) * * *

(ix) All MFH loans being reamortized must be closed on PASS, except LH loans specified in § 1951.501(a)(2)(i) of Subpart K of Part 1951 of this chapter. All initial and subsequent loans must convert to PASS in connection with the reamortization.

(x) When recoverable cost items are involved, they are first capitalized by adding them to the principal loan balance outstanding on the oldest loan and then the entire indebtedness (principal plus outstanding interest, overage and late fees) is reamortized.

(xi) Audit receivables may not be reamortized.

* * * * *

(d) * * *

(5) The interest rate for the account will be unchanged except when the final due date has been extended. The interest rate charged will be the rate at the time the Reamortization Request (Form FmHA 1951-33) is approved, or

the current interest rate at closing, whichever is less.

* * * * *

(9) Reamortizations will always be closed the first day of the month. Unpaid interest to the date of closing may be capitalized.

7. Section 1965.70(b)(3) introductory text is amended by changing the reference "Form FmHA 451-33" to "Form FmHA 1951-33."

Dated: March 22, 1991.

La Verne Ausman,
Administrator, Farmers Home
Administration.

[FR Doc. 91-13060 Filed 6-3-91; 8:45 am]

BILLING CODE 3410-07-M

RESOLUTION TRUST CORPORATION

12 CFR Part 1609

RIN 3205-AA03

Affordable Housing Disposition Program

AGENCY: Resolution Trust Corporation.

ACTION: Temporary regulation.

SUMMARY: The Resolution Trust Corporation (RTC) is adopting temporary amendments to the final rule (12 CFR part 1609) for the Affordable Housing Disposition Program in order to implement the provisions of the Resolution Trust Corporation Funding Act (the "Funding Act") of 1991 (Pub. L. 101-73) which amends in part section 21A(c) of the Federal Home Loan Bank Act. Among other things, the Funding Act (i) expands the RTC affordable housing program to include, as eligible residential properties, single family properties held in conservatorship and (ii) allows the RTC to sell eligible single family properties to qualifying families, nonprofit organizations and public agencies without regard to minimum sales price.

EFFECTIVE DATE: Sections 1609.2(h)(1) and 1609.7(a)(3), as published August 31, 1990 (55 FR 35568), are hereby suspended effective March 23, 1991 through September 30, 1991. Temporary §§ 1609.2(h)(1) and 1609.7(a)(3) are effective from March 23, 1991 through September 30, 1991.

ADDRESSES: Resolution Trust Corporation, 801 17th Street, NW., Washington, DC 20434.

FOR FURTHER INFORMATION CONTACT: Stephen S. Allen, Director, Affordable Housing Disposition Program, (202) 416-7348, or Muriel Watkins, Program Coordinator, Affordable Housing

Disposition Program, (202) 416-7137.
(These are not toll-free numbers).

SUPPLEMENTARY INFORMATION:

Administrative Procedure Act

The RTC is adopting this temporary change to its regulation effective March 23, 1991 without the delayed effective date as provided for in the Administrative Procedure Act 5 U.S.C. 553. These requirements may be waived for "good cause." The RTC believes that "good cause" exists to waive the requirements of the Administrative Procedures Act because the amendments to 21A(c) of the Federal Home Loan Bank Act took effect immediately upon the enactment of the Funding Act and are only in effect until September 30, 1991. By implementing these changes immediately the Resolution Trust Corporation is complying with Congressional authority which provides an opportunity to dispose of a substantial volume of single family properties to the benefit of low and moderate income households. To accomplish this goal, the RTC will be marketing properties through a series of sealed bid and auction events, as well as marketing property individually. This process will allow the RTC to help satisfy the demand for affordable housing in regional markets where the RTC has a large inventory of single family homes. By making houses immediately available through marketing events, and selling absolute, with no established reserve price, the RTC will avoid further deterioration of the existing inventory of eligible properties while expanding the range of households who can become homeowners through the disposition of assets of failed savings and loans.

Important also is the fact that by expediting the sale of single family property, federal taxpayers benefit from the reduced holding cost associated with these properties. Additionally, there is the benefit to a local economy associated with turning vacant properties to owner occupied housing which contributes to the local tax base.

List of Subjects in 12 CFR Part 1609

Housing, Real estate, Reporting and recordkeeping requirements, Savings associations.

Accordingly chapter XVI of title 12 of the Code of Federal Regulations is amended as set forth below.

PART 1609—AFFORDABLE HOUSING DISPOSITION PROGRAM

1. The authority citation for part 1609 continues to read as follows:

Authority: Pub. L. No. 101-73, sec. 501, 103 Stat. 183 (12 U.S.C. 1441a).

2. Section 1609.2(h)(1) and 1609.7(a)(3), which were published August 31, 1990 (55 FR 35568), are suspended effective March 23, 1991, through September 30, 1991.

3. Temporary regulation § 1609.2(h)(1) is added effective March 23, 1991, through September 30, 1991, to read as follows:

§ 1609.2 Definitions.

* * *

(h) * * *

(1) To which the RTC acquires title acting in any capacity.

* * *

4. Temporary regulation § 1609.7(a)(3) is added effective March 23, 1991, through September 30, 1991, to read as follows:

§ 1609.7 Marketing period.

(a) * * *

(3) *Offer and sale.* (i) The RTC shall establish a market value for each eligible single family property.

(ii) The RTC may consider offers during the Marketing Period from qualifying single family purchasers and may accept the best price offer received resulting from a sealed bid, auction, or other multi-property marketing event. The RTC may also consider offers during the Marketing Period from qualifying single family purchasers for properties marketed on an individual basis and, at its discretion, may accept the best offer received.

* * *

By order of the Board of Directors.

Dated at Washington, DC, this 21st day of May, 1991.

Resolution Trust Corporation.

John M. Buckley, Jr.,

Executive Secretary.

[FR Doc. 91-13093 Filed 6-3-91; 8:45 am]

BILLING CODE 6714-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 91-NM-100-AD; Amdt. 39-7014; AD 91-12-03]

Airworthiness Directives; Boeing Model 747-400, 757, and 767 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain Boeing Model 747-400, 757, and 767 series airplanes, which requires a one-time inspection to locate certain cargo fire extinguishing agent containers which may be contaminated with water. This amendment is prompted by a report from one operator identifying two occurrences of false indication of low pressure in the cargo compartment fire extinguishing containers. This condition, if not corrected, could reduce or stop the discharge of fire extinguishing agent due to water freezing in the metered distribution lines, and could cause false low pressure indications in the initial discharge indicating system.

DATES: Effective June 19, 1991.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of June 19, 1991.

ADDRESSES: The applicable service information may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124; or Pacific Scientific, HTL/Kin-Tech Division, 1800 Highland Avenue, Duarte, California 91010-2906, telephone (818) 359-9317. This information may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington; or at the Office of the Federal Register, 1100 L Street NW., room 8401, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Mr. G.M. Dail, Seattle Aircraft Certification Office, Systems and Equipment Branch, ANM-130S; telephone (206) 227-2874. Mailing address: FAA, Northwest Mountain Region, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington 98055-4056.

SUPPLEMENTARY INFORMATION: The FAA has received a report from the manufacturer indicating that one operator of Boeing Model 767 series airplanes has experienced two incidents of false indications of low pressure in cargo compartment fire extinguishing agent containers. Further investigation of the two incidents revealed that the fire extinguishing agent containers contained excessive amounts of water which could reduce or stop the discharge of fire extinguishing agent from the metered discharge system due to freezing of water at the nozzle. Testing has shown that the initial discharge system would not be affected by freezing of water. However, excessive quantities of water in both the

initial discharge and metered systems could cause corrosion of the pressure indicating components, which could result in false indications of low pressure.

These conditions, if not corrected, could result in inadequate fire protection of the cargo compartment.

Boeing Model 747-400 and Model 757 series airplanes are equipped with similar cargo compartment fire extinguishing agent containers and systems as are installed on the Model 767. These models, therefore, would be subject to the same unsafe condition identified on the Model 767.

The FAA has reviewed and approved Boeing Service Bulletins 757-26A0026, 747-26A2180, 767-26A0075, and 767-26-0076, all dated March 28, 1991; and 757-26-0027, Revision 1, dated April 11, 1991. These service bulletins identify the affected airplanes; describe procedures for a one-time inspection of the fire extinguishing agent containers; and describe procedures for removal and replacement, if necessary, of the fire extinguishing agent containers.

The FAA has also reviewed and approved Pacific Scientific HTL/Kin-Tech Division Alert Service Bulletin 26A1100, Revision 1, dated April 3, 1991, which identifies the cargo fire extinguishing containers that may be contaminated.

Since this condition is likely to exist on other airplanes of the same type designs, this AD requires a one-time inspection to locate, remove, and replace, if necessary, certain cargo fire extinguishing agent containers, in accordance with the service bulletins previously described.

Since a situation exists that requires immediate adoption of this regulation, it is found that notice and public procedure hereon are impracticable, and good cause exists for making this amendment effective in less than 30 days.

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

The FAA has determined that this regulation is an emergency regulation and that it is not considered to be major under Executive Order 12291. It is impracticable for the agency to follow the procedures of Executive Order 12291 with respect to this rule since the rule

must be issued immediately to correct an unsafe condition in aircraft. It has been determined further that this action involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979). If it is determined that this emergency regulation otherwise would be significant under DOT Regulatory Policies and Procedures, a final regulatory evaluation will be prepared and placed in the Rules Docket (otherwise, an evaluation is not required). A copy of it, if filed, may be obtained from the Rules Docket.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends 14 CFR part 39 of the Federal Aviation Regulations as follows:

PART 39—[AMENDED]

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); and 14 CFR 11.89.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

91-12-03. Boeing: Amendment 39-7014. Docket 91-NM-100-AD.

Applicability: Model 757, 747-400, and 767 series airplanes; as listed in Boeing Service Bulletins 757-26A0026, 747-26A2180, 767-26A0075, and 767-26-0076, each dated March 28, 1991, and 757-26-0027, Revision 1, dated April 11, 1991; certificated in any category.

Compliance: Required within 30 calendar days after the effective date of this AD, unless previously accomplished.

To prevent reduced or blocked discharge of fire extinguishing agent from the cargo compartment metered system, and to prevent false indications of low pressure in the initial discharge system, accomplish the following:

(a) Determine the part number and serial number of each cargo compartment fire extinguishing agent container by inspection of aircraft records or visual inspection of the containers. If the part number and serial number are listed in appendix 1 of Pacific Scientific HTL/Kin-Tech Division Alert Service Bulletin 26A1100, Revision 1, dated April 3, 1991, prior to further flight, replace the container with one having a part number and serial number not listed in that Pacific Scientific HTL service bulletin. If the part number and serial number are not listed in that Pacific Scientific HTL service bulletin, no further action is required.

(b) An alternative method of compliance or adjustment of the compliance time, which provides an acceptable level of safety, may be used when approved by the Manager, Seattle Aircraft Certification Office (ACO), FAA, Transport Airplane Directorate.

Note: The request should be forwarded through an FAA Principal Maintenance Inspector, who may concur or comment and then send it to the Manager, Seattle ACO.

(c) Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base in order to comply with the requirements of this AD.

The required inspections shall be conducted on those airplanes listed in the "Effectivity" sections of Boeing Service Bulletins 757-26A0026, 747-26A2180, 767-26A0075, and 767-26-0076, each dated March 28, 1991; and Boeing Service Bulletin 757-26-0027, Revision 1, dated April 11, 1991. Part numbers and serial numbers of the cargo compartment fire extinguishing agent containers installed on the airplane shall be compared against the listing of part numbers and serial numbers of potentially contaminated containers contained in Appendix 1, pages 1 through 16, of Pacific Scientific, HTL/Kin-Tech Division, Alert Service Bulletin 26A1100, Revision 1, dated April 3, 1991. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124. Copies may be inspected at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington; or at the Office of the Federal Register, 1100 L Street NW., room 8401, Washington, DC.

This amendment (39-7014, AD 91-12-03) becomes effective June 19, 1991.

Issued in Renton, Washington, on May 20, 1991.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 91-13057 Filed 6-3-91; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 39

[Docket No. 91-NM-84-AD; Amdt. 39-7004]

Airworthiness Directives; Boeing Model 757 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action publishes in the Federal Register and makes effective as to all persons an amendment adopting Airworthiness Directive (AD) T91-07-51, which was previously made effective as to all known U.S. owners and operators of Boeing Model 757 series airplanes by individual telegrams. This AD requires a one-time inspection for improperly

installed nuts in the upper and lower attachments of the rudder yaw damper pogo assembly; replacement, if necessary; and reporting of improper installation to the FAA. This action is prompted by a recent report of improper installation of the rudder yaw damper pogo assembly during production. The loss of this attachment could result in the rudder becoming unrestrained such that rudder oscillation is probable.

DATES: Effective July 1, 1991, as to all persons except those persons to whom it was made immediately effective by telegraphic AD T91-07-51, issued March 27, 1991, which contained this amendment. The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of July 1, 1991.

ADDRESSES: The applicable service information may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington. This information may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: Mr. Stanton R. Wood, Seattle Aircraft Certification Office, Airframe Branch, ANM-120S; telephone (206) 227-2772. Mailing address: FAA, Northwest Mountain Region, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington 98055-4056.

SUPPLEMENTARY INFORMATION: On March 27, 1991, the FAA issued telegraphic AD T91-07-51, applicable to Boeing Model 757 series airplanes, which requires a one-time inspection for improperly installed nuts in the upper and lower attachments of the rudder yaw damper pogo assembly, replacement of improperly installed nuts and bolts, and reporting of improper installation to the FAA.

That action was prompted by a recent report of improper installation of the rudder yaw damper pogo assembly during production. A nut on the lower attachment bolt was found to be cross threaded. The loss of this attachment, which would be undetected by the flight crew, in combination with a failure of the rudder yaw damper shear pin (a component with a known failure history, and which is currently under review by the FAA) would result in the rudder becoming unrestrained such that rudder oscillation is probable.

Since it was found that immediate corrective action was required, notice and public procedure thereon were impracticable and contrary to the public interest, and good cause existed to make the AD effective immediately by

individual telegrams issued on March 27, 1991 to all known U.S. owners and operators of Boeing Model 757 series airplanes. These conditions still exist, and the AD is hereby published in the Federal Register as an amendment to § 39.13 of part 39 of the Federal Aviation Regulations (FAR) to make it effective as to all persons.

Information collection requirements contained in this regulation have been approved by the Office of Management and Budget (OMB) under the provisions of the Paperwork Reduction Act of 1980 (Pub. L. 96-511) and have been assigned OMB Control Number 2120-0056.

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

The FAA has determined that this regulation is an emergency regulation and that it is not considered to be major under Executive Order 12291. It is impracticable for the agency to follow the procedures of Executive Order 12291 with respect to this rule since the rule must be issued immediately to correct an unsafe condition in aircraft. It has been determined further that this action involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979). If it is determined that this emergency regulation otherwise would be significant under DOT Regulatory Policies and Procedures, a final regulatory evaluation will be prepared and placed in the Rules Docket (otherwise, an evaluation is not required). A copy of it, if filed, may be obtained from the Rules Docket.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends 14 CFR part 39 of the Federal Aviation Regulations as follows:

PART 39—[AMENDED]

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); and 14 CFR 11.89.

§ 39.13—[Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

91-07-51. Boeing: Amendment 39-7004.

Docket No. 91-NM-84-AD.

Applicability: Model 757 series airplanes, line number 154 through 350, except line numbers 332 and 340, certificated in any category.

Compliance: Required as indicated, unless previously accomplished. To detect improperly installed nuts in the upper and lower attachment of the rudder yaw damper pogo assembly, accomplish the following:

A. Within the next 60 flight cycles or 20 days after the effective date of this AD, whichever occurs sooner, inspect the upper and lower attachment of the rudder yaw damper pogo assembly for improper installation of the nuts in accordance with Boeing Telegram M-7272-91-1886, dated March 22, 1991. If less than one thread from the bolt protrudes through the nut, or if the nut is or appears to be cross threaded, replace both the nut and bolt prior to further flight.

B. Within 10 days after completion of the inspection required by paragraph A. of this AD, submit a report of findings of discrepancies to the Manager, Seattle Manufacturing Inspection District Office, ANM-108S, FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington 98055-4056; fax: (206) 227-1181.

C. An alternative method of compliance or adjustment of the compliance time, which provides an acceptable level of safety, may be used when approved by the Manager, Seattle Aircraft Certification Office (ACO), FAA, Transport Airplane Directorate.

Note: The request should be forwarded through an FAA Principal Maintenance Inspector, who may concur or comment and then send it to the Manager, Seattle ACO.

D. Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base in order to comply with the requirements of this AD.

The inspection shall be done in accordance with Boeing Telegram M-7272-91-1886, dated March 22, 1991. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124. Copies may be inspected at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington, or at the Office of the Federal Register, 1100 L Street NW., room 8401, Washington, DC.

This amendment becomes effective July 1, 1991, as to all persons, except those persons to whom it was made immediately effective by telegraphic AD T91-07-51, issued March 27, 1991, which contained this amendment.

Issued in Renton, Washington, on May 9, 1991.

Leroy A. Keith,

Manager, Transport Airplane Directorate,
Aircraft Certification Service.

[FR Doc. 91-12985 Filed 6-3-91; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 39

[Docket No. 91-NM-85-AD; Amendment 39-7002]

Airworthiness Directives; Boeing Model 707/720 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain Boeing Model 707/720 series airplanes, which requires inspection and repair, if necessary, of cracks in the wing rear spar upper chord. This amendment is prompted by a recent report of a 59-inch crack inboard of wing station (WS) 360. This condition, if not corrected, could result in crack propagation to the point where fail-safe loads can no longer be supported. This could lead to failure of the rear spar, and subsequent failure of the wing.

DATES: Effective June 19, 1991.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of June 19, 1991.

ADDRESSES: The applicable service information may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124. This information may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: Ms. Della Henriksen Swartz, Seattle Aircraft Certification Office, Airframe Branch, ANM-120S; telephone (206) 227-2776. Mailing address: FAA, Northwest Mountain Region, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington 98055-4056.

SUPPLEMENTARY INFORMATION: Recently, one operator of a Boeing Model 707/720 series airplane reported a 59-inch crack in the wing rear spar upper chord which was located between wing station (WS) 234 and WS 293, inboard of the inboard engine nacelle. Fuel leakage resulted, which led to discovery of the crack. There was also a previous report of a 12-inch crack in the wing rear spar upper

chord inboard of WS 360 on another Model 707/720. Cracks in the rear spar upper chord are attributed to a combination of corrosion and fatigue resulting from loads induced in the spar chord at rib attachments and stiffener locations. Cracks of such length may lower the fail-safe load capability below required minimums, and, if left undetected and unrepaired, could result in buckling of the upper rear spar and failure of the wing.

The FAA has reviewed and approved Boeing Service Bulletin 3240, Revision 3, dated October 18, 1985, which describes the procedures for periodic visual inspections of the wing rear spar upper chord for cracks and corrosion, and procedures for repairs if cracks or corrosion areas are found.

Since this condition is likely to exist or develop on other airplanes of the same type design, this AD requires repetitive visual inspections of the wing rear spar upper chord inboard of WS 360 at rib and stiffener locations, and repair, if necessary, in accordance with the service bulletin previously described.

Since a situation exists that requires immediate adoption of this regulation, it is found that notice and public procedure hereon are impracticable, and good cause exists for making this amendment effective in less than 30 days.

The FAA intends to initiate further rulemaking action to require a finite time limit on stop-drill repairs to the wing rear spar in accordance with Boeing Service Bulletin 3240, Revision 3, dated October 18, 1985, or previous revisions, on all affected Model 707/720 series airplanes. The stop-drill repair is considered interim action at this time. However, the proposed compliance time for final repair after stop drilling is sufficiently long so that notice and public comment will not be impracticable.

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

The FAA has determined that this regulation is an emergency regulation and that it is not considered to be major under Executive Order 12291. It is impracticable for the agency to follow the procedures of Executive Order 12291 with respect to this rule since the rule must be issued immediately to correct

an unsafe condition in aircraft. It has been determined further that this action involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979). If it is determined that this emergency regulation otherwise would be significant under DOT Regulatory Policies and Procedures, a final regulatory evaluation will be prepared and placed in the Rules Docket (otherwise, an evaluation is not required). A copy of it, if filed, may be obtained from the Rules Docket.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends 14 CFR Part 39 of the Federal Aviation Regulations as follows:

PART 39—[AMENDED]

1. The authority citation for Part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); and 14 CFR 11.89.

§ 39.13—[AMENDED]

2. Section 39.13 is amended by adding the following new airworthiness directive:

91-11-06. Boeing: Amendment 39-7002.
Docket No. 91-NM-85-AD.

Applicability: Model 707/720 series airplanes, listed in Boeing Service Bulletin 3240, Revision 3, dated October 18, 1985, certificated in any category.

Compliance: Required as indicated, unless previously accomplished.

To ensure continued structural integrity of the wing rear spar upper chord, accomplish the following:

(a) Perform a close visual inspection for cracks and corrosion of the wing rear spar upper chord from wing station (WS) 360 to WS 109.45 at rib and stiffener locations, in accordance with Boeing Service Bulletin 3240, Revision 3, dated October 18, 1985, prior to the later of the times specified in subparagraphs (a)(1) and (a)(2) of this AD, unless previously accomplished within the last 900 flight cycles or 335 days. Repeat the inspection at intervals not to exceed 1,000 flight cycles or one year, whichever occurs first.

(1) Within the next 30 days or 100 flight cycles after the effective date of this AD, whichever occurs first; or

(2) Prior to the accumulation of 10,000 flight cycles.

(b) If cracks or corrosion areas are found, prior to further flight, repair in accordance with Boeing Service Bulletin 3240, Revision 3.

dated October 18, 1985. If the stop drill procedure is used (refer to the Boeing Model 707 Structural Repair Manual, Subject 51-2-10, section C, for the recommended stop drill procedure), perform an eddy current inspection of the stop drill hole in accordance with Subject 5-5-1 of Boeing Document D6-7170, Non-Destructive Test Document, to ensure that the crack does not extend beyond the stop drill.

(c) After accomplishing each of the inspections required by paragraphs (a) and (b) of this AD, and after performing repairs, apply BMS 3-23 corrosion inhibitor, or equivalent, to the affected areas.

(d) An alternative method of compliance or adjustment of the compliance time, which provides an acceptable level of safety, may be used when approved by the Manager, Seattle Aircraft Certification Office (ACO), FAA, Transport Airplane Directorate.

Note: The request should be forwarded through an FAA Principal Maintenance Inspector who may concur or comment and then send it to the Manager, Seattle ACO.

(e) Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base in order to comply with the requirements of this AD.

The inspections and repairs shall be done in accordance with Boeing Service Bulletin 3240, Revision 3, dated October 18, 1985. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124. Copies may be inspected at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington; or at the Office of the Federal Register, 1100 L Street NW., Room 8401, Washington, DC.

This amendment (39-7002, AD 91-11-06) becomes effective June 19, 1991.

Issued in Renton, Washington, on May 8, 1991.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.
[FR Doc. 91-12984 Filed 6-3-91; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 39

[Docket No. 91-CE-05-AD; Amendment 39-7017; AD 91-12-06]

Airworthiness Directives; GROB Luft und Raumfahrt Model G 109B Motor Gliders

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that is applicable to GROB Luft und Raumfahrt Model G 109B motor gliders. This action requires a one-time inspection of the security of the stud bolts in the root rib stud plate. Studs have separated from

the root rib stud plate on several of the affected motor gliders and caused interference between the aileron and airbrake control systems. The actions specified by this AD are intended to prevent the loss of these critical systems and the possible loss of control of the airplane.

EFFECTIVE DATE: July 5, 1991.

ADDRESSES: GROB Service Bulletin (SB) No. TM 817-29, dated August 6, 1990, that is discussed in this AD may be obtained from GROB Luft und Raumfahrt, D-8939 Mattsies, Federal Republic of Germany. This information may also be examined at the FAA, Central Region, Office of the Assistant Chief Counsel, room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

FOR FURTHER INFORMATION CONTACT:

Mr. R. Stoer, Program Manager, Brussels Aircraft Certification Staff, Europe, Africa, Middle East office, FAA, c/o American Embassy, 1000 Brussels, Belgium; Telephone 322.513.38.30 extension 2710; or Mr. Herman Belderok, Project Officer, Small Airplane Directorate, Aircraft Certification Service, FAA, 601 E. 12th Street, Kansas City, Missouri 64106; Telephone (816) 426-6932; Facsimile (816) 426-2169.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations to include an AD that is applicable to certain GROB Luft und Raumfahrt Model G 109B motor gliders was published in the Federal Register on February 25, 1991 (56 FR 7621). The action proposed a one-time inspection of the security of the stud bolts in the root rib stud plate in accordance with the instructions in GROB Service Bulletin No. TM-817-29, dated August 6, 1990.

Interested persons have been afforded an opportunity to participate in the making of this amendment. No comments were received on the proposed rule or the FAA's determination of the cost to the public.

The economic analysis paragraph that is discussed below, has been revised to increase the specified hourly labor rate from \$40 an hour (as was cited in the preamble of the notice of proposed rulemaking (NPRM)) to \$55 an hour. The FAA determined that it is necessary to increase this rate used in calculating the cost impact associated with AD action to account for various inflationary costs in the aviation industry.

The FAA has determined that air safety and the public interest require the adoption of the rule as proposed except for the change in the economic analysis and minor editorial corrections. These minor corrections will not change the meaning of the AD nor add any

additional burden upon the public than was already proposed.

The compliance time has been mandated in calendar months instead of hours time-in-service. The FAA determined that this is the most desirable method of compliance for this AD because yearly operational times vary greatly throughout the fleet. For example, one motor glider operator might utilize the glider 10 hours in one month, while another may not utilize the glider 10 hours in one year. Therefore, to maintain continuity and avoid inadvertent grounding of the affected motor gliders, compliance based upon calendar time is mandated.

It is estimated that 32 motor gliders in the U.S. registry will be affected by this AD, that it will take approximately 1.5 hours per airplane to accomplish the required action, and that the average labor rate is approximately \$55 an hour. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be \$2,640.

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this action (1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the final evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption "ADDRESSES".

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends 14 CFR part 39 of the Federal Aviation Regulations as follows:

PART 39—[AMENDED]

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g); and 14 CFR 11.89.

§ 39.13—[AMENDED]

2. Section 39.13 is amended by adding the following new AD:

AD 91-12-06 GROB Luft und Raumfahrt:
Amendment 39-7017; Docket No.
91-CE-05-AD.

Applicability: Model G 109B motor gliders (serial numbers 6200 through 6362), certificated in any category.

Compliance: Required within the next 3 calendar months after the effective date of this AD, unless already accomplished.

To prevent separation of the studs in the root rib stud plate that could result in loss of the aileron and airbrake control systems, accomplish the following:

(a) Inspect the security of the studs in the root rib stud plate (part number 109B-4108) in accordance with the instructions in GROB Service Bulletin No. TM-817-29, dated August 6, 1990. If any loose studs are found, prior to further flight, repair the stud plate in accordance with the instructions in the referenced SB.

(b) Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate the motor glider to a location where the requirements of this AD can be accomplished.

(c) An alternative method of compliance or adjustment of the compliance time that provides an equivalent level of safety may be approved by the Manager, Brussels Aircraft Certification Office, Europe, Africa, and Middle East Office, FAA, c/o American Embassy, B-1000 Brussels, Belgium; Telephone (322) 513.38.30. The request should be forwarded through an appropriate FAA Maintenance Inspector, who may add comments and then send it to the Manager, Brussels Aircraft Certification Office.

(d) All persons affected by this directive may obtain copies of the document discussed in this AD upon request to GROB Luft und Raumfahrt, D-8939 Mattsies, Federal Republic of Germany; or may examine this document at the FAA, Central Region, Office of the Assistant Chief Counsel, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64108.

This amendment becomes effective on July 5, 1991.

Issued in Kansas City, Missouri, on May 20, 1991.

Henry A. Armstrong,

Acting Manager, Small Airplane Directorate,
Aircraft Certification Service.

[FR Doc. 91-12981 Filed 6-3-91; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 39

[Docket No. 90-ANE-35; Amendment 39-7001]

Airworthiness Directives; General Electric Company (GE) CF6-80A and CF6-80C2 Series Turbofan Engines

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to GE CF6-80A and CF6-80C2 series turbofan engines, which requires ultrasonic inspection of the high pressure compressor rotor (HPCR) stages 11-14 spool-shaft inertia weld for cracks or voids. This amendment is prompted by two HPCR stages 11-14 spool-shaft failures at the inertia weld. This condition, if not corrected, could result in aborted takeoff and uncontained engine failure.

DATES: Effective July 5, 1991.

The incorporation by reference of certain publications listed in the regulation is approved by the Director of the Federal Register as of July 5, 1991.

ADDRESSES: The applicable service information may be obtained from General Electric Aircraft Engines, CF6 Distribution Clerk, room 132, 111 Merchant Street, Cincinnati, Ohio 45246, or may be examined in the FAA, New England Region, Office of the Assistant Chief Counsel, room 311, 12 New England Executive Park, Burlington, Massachusetts.

FOR FURTHER INFORMATION CONTACT: Karen Grant, Engine Certification Office, ANE-140, Engine and Propeller Directorate, Aircraft Certification Service, FAA, New England Region, 12 New England Executive Park, Burlington, Massachusetts 01803-5299; telephone (617) 273-7096.

SUPPLEMENTARY INFORMATION: A proposal to amend Part 39 of the Federal Aviation Regulations (FAR) to include a new airworthiness directive, applicable to GE CF6-80A and CF6-80C2 series turbofan engines, which requires ultrasonic inspection of the HPCR stages 11-14 spool-shaft inertia weld, was published in the Federal Register on December 20, 1990 (55 FR 52180).

Interested persons have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to the one comment received.

One commenter requested that the uppermost inspection threshold be increased from 5,000 cycles to 6,000 cycles. The commenter further stated that the increase will allow one operator

the option of accomplishing the inspections during routine shop visits.

The FAA does not concur with the commenter. An increase to the uppermost inspection threshold does not provide an acceptable level of safety. Therefore, the uppermost inspection threshold will not be increased.

After review of the available data, including the comment noted above, the FAA has determined that air safety and the public interest require the adoption of the rule as proposed.

There are approximately 850 GE CF6-80A and CF6-80C2 series turbofan engines of the affected design in the worldwide fleet. It is estimated that 244 engines installed on aircraft of U.S. registry would be affected by this AD, that it would take approximately 37 manhours per engine to accomplish the required actions, and that the average labor cost would be \$55 per manhour. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be \$496,540.

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this action (1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the final evaluation has been prepared for this action and is contained in the Rules Docket. A copy of it may be obtained from the Rules Docket.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, and Safety.

The Adopted Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration (FAA) amends 14 CFR Part 39 of the Federal Aviation Regulations (FAR) as follows:

PART 39—[AMENDED]

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); and 14 CFR 11.89.

§ 39.13—[AMENDED]

2. Section 39.13 is amended by adding the following new airworthiness directive (AD):

91-11-05 General Electric Company:
Amendment 39-7001, Docket No. 90-ANE-35.

Applicability: General Electric Company (GE) CF6-80A and CF6-80C2 series engines installed on, but not limited to, Airbus A300 and A310; and Boeing 747 and 767 aircraft.

Compliance: Required as indicated, unless already accomplished.

To prevent aborted takeoff and uncontained engine failure, accomplish the following:

(a) Ultrasonic inspect the inertia weld of affected high pressure compressor rotor (HPCR) stages 11-14 spool-shafts at the next engine shop visit after the effective date of this AD but no later than 5,000 cycles in service (CIS) after the effective date of this AD, according to the following:

(1) Inspect CF6-80A HPCR stages 11-14 spool-shafts, Part Numbers (P/N) 9225M37G11, 9225M37G14, 9225M37G16, 9225M37G18, 9225M37G19, 9225M37G20, 9225M37G21, and 1509M71G01, in accordance with the Accomplishment Instructions in GE CF6-80A Service Bulletin (SB) 72-531, Revision 2, dated May 18, 1990.

(2) Inspect CF6-80C2 HPCR stages 11-14 spool-shafts, P/N 9380M30G07, 9380M30G08, 9380M30G09, 9380M30G10, 1531M21G01, 1509M71G02, 1509M71G03, 1509M71G04, 1509M71G05, and 1509M71G06, in accordance with the Accomplishment Instructions in GE CF6-80C2, SB 72-314, Revision 2, dated June 20, 1990.

(3) Remove from service prior to further flight and replace with serviceable parts, HPCR stages 11-14 spool-shafts with ultrasonic indications greater than or equal to 50 percent full-screen height.

(4) For the purpose of this AD, an engine shop visit is defined as the induction of the engine into a shop where the subsequent maintenance entails removal of the high pressure turbine module.

(5) For the purpose of this AD, definition of ultrasonic indication is provided in GE CF6-80A SB 72-531, Revision 2, dated May 18, 1990, and GE CF6-80C2 SB 72-314, Revision 2, dated June 20, 1990, for the CF6-80A and CF6-80C2 engine models, respectively.

(b) Aircraft may be ferried in accordance with the provisions of FAR 21.197 and 21.199 to a base where the AD can be accomplished.

(c) Upon submission of substantiating data by an owner or operator through an FAA Inspector (maintenance, avionics, or operations, as appropriate) an alternate method of compliance with the requirements of this AD or adjustments to the compliance times specified in this AD may be approved by the Manager, Engine Certification Office, Engine and Propeller Directorate, Aircraft

Certification Service, FAA, 12 New England Executive Park, Burlington, Massachusetts 01803-5299.

The ultrasonic inspections shall be done in accordance with following the following GE documents:

Document	Page No.	Issue/Revision	Date
GE CF6-80A	2-12, 15, 17-27, 30, 31.	Rev. 1	4/3/89
SB 72-531.	1, 13, 14, 16, 28, 29.	Rev. 2	5/18/90
GE CF6-80C2	2-12, 15, 17-27, 30, 31.	Rev. 1	4/19/89
SB 72-314.	1, 13, 14, 16, 28, 29.	Rev. 2	6/20/90

This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from General Electric Aircraft Engines, CF6 Distribution Clerk, room 132, 111 Merchant Street, Cincinnati, Ohio 45248. Copies may be inspected at the FAA, New England Region, Office of the Assistant Chief Counsel, room 311, 12 New England Executive Park, Burlington, Massachusetts, or at the Office of the Federal Register, 1100 L Street, NW., room 8401, Washington, DC.

This amendment (39-7001, AD 91-11-05) becomes effective July 5, 1991.

Issued in Burlington, Massachusetts, on May 6, 1991.

Jack A. Sein,

Manager, Engine and Propeller Directorate, Aircraft Certification Service.

[FR Doc. 91-12983 Filed 6-3-91; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 39

[Docket No. 91-CE-07-AD; Amendment 39-7018; AD 91-12-07]

Airworthiness Directives; Wytbornia Sprzetu Komunikacyjnego PZL-Mielec Model M18 (Dromader) Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that is applicable to certain Wytbornia Sprzetu Komunikacyjnego PZL-Mielec Model M18 (Dromader) airplanes. This action requires the modification of the electro-hydraulic control system and the replacement of the associated hydraulic hoses. Several of these hydraulic hoses on the affected airplanes have developed cracks. The actions specified by this AD are intended to prevent failure of the electro-hydraulic control system that results in loss of flap and brake control.

DATES: Effective July 5, 1991. The incorporation by reference of certain

publications listed in the regulations is approved by the Director of the Federal Register as of July 5, 1991.

ADDRESSES: PZL-Mielec Mandatory Engineering Bulletin No. K/02.141/90, dated April 1990, that is discussed in this AD may be obtained from PZL-Mielec, Ludowego Wojska Polkiego 3, 39-300 Mielec, Poland. This information may also be examined at the FAA, Central Region, Office of the Assistant Chief Counsel, room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

FOR FURTHER INFORMATION CONTACT: Mr. Carl Mittag, Flight Test Pilot, Brussels Aircraft Certification Staff, FAA, Europe, Africa, and Middle East Office, c/o American Embassy, B-1000, Brussels, Belgium; Telephone 322 513-3830, Ext 2716; or Mr. Richard Yotter, Supervising Aerospace Engineer, Small Airplane Directorate, Aircraft Certification Service, FAA, 601 E. 12th Street, Kansas City, Missouri 64106; Telephone (816) 426-6932.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations to include an AD that is applicable to certain Wytbornia Sprzetu Komunikacyjnego PZL-Mielec Model M18 (Dromader) airplanes was published in the Federal Register on March 8, 1991 (56 FR 9913). The action proposed the modification of the electro-hydraulic control system and the replacement of the associated hydraulic hoses in accordance with the instructions in PZL-Mielec Mandatory Engineering Bulletin No. K/02.141/90, dated April 1990.

Interested persons have been afforded an opportunity to participate in the making of this amendment. No comments were received on the proposed rule or the FAA's determination of the cost to the public.

The economic analysis paragraph that is discussed below, has been revised to increase the specified hourly labor rate from \$40 an hour (as was cited in the preamble of the notice of proposed rulemaking (NPRM)) to \$55 an hour. The FAA has determined that it is necessary to increase this rate used in calculating the cost impact associated with AD action to account for various inflationary costs in the aviation industry.

The FAA has determined that air safety and the public interest require the adoption of the rule as proposed except for the change in the economic analysis and minor editorial corrections. These minor corrections will not change the meaning of the AD nor add any additional burden upon the public than was already proposed.

It is estimated that 62 airplanes in the U.S. registry will be affected by this AD, that it will take approximately 8 hours per airplane to accomplish the required action, and that the average labor rate is approximately \$55 an hour. Parts cost approximately \$750 per airplane. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be \$73,780.

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this action (1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the final evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption "ADDRESSES".

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends 14 CFR part 39 of the Federal Aviation Regulations as follows:

PART 39—[AMENDED]

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g); and 14 CFR 11.89.

§ 39.13—[Amended]

2. Section 39.13 is amended by adding the following new AD:

AD 91-12-07 Wytownia Sprzetu Komunikacyjnego PZL-Mielec:

Amendment No. 39-7018; Docket No. 91-CE-07-AD.

Applicability: Model M18 airplanes (serial numbers (S/N) 12013-21 through 12023-30), equipped with an agriculture equipment electro-hydraulic control system

(Modification D73.701.00.1), certificated in any category.

Compliance: Required as indicated, unless already accomplished.

To prevent failure of the electro-hydraulic control system that results in loss of flap and brake control, accomplish the following:

(a) For S/N 12013-21 through 12023-30 airplanes, upon the accumulation of 200 hours time-in-service (TIS) or within the next 25 hours TIS after the effective date of this AD, whichever occurs later, replace each flexible hose having part number (P/N) D73.7/21.00.0 or D73.7/24.00.0 with a new hose in accordance with the instructions in PZL-Mielec Mandatory Engineering Bulletin (MEB) No. K/02.141/90, dated April 1990.

(1) If hoses are replaced with either P/N D73.7/21.00.0 or D73.7/24.00.0, replace these hoses at intervals not to exceed 200 hours TIS.

(2) If hoses are replaced with P/N D73.7/26.00.0 or D73.7/25.00.0 hose, no further action is required.

(b) For S/N 12013-21 through 12022-05 airplanes, upon the accumulation of 500 hours TIS or within the next 100 hours TIS after the effective date of this AD, whichever occurs later, modify the electro-hydraulic control system in accordance with the instructions in Paragraph III, 2. of PZL-Mielec MEB No. K/02.141/90, dated April 1990.

(c) Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a location where the requirements of this AD can be accomplished.

(d) An alternative method of compliance or adjustment of the initial or repetitive compliance times that provides an equipment level of safety may be approved by the Manager, Brussels Aircraft Certification Staff, FAA, Europe, Africa, and Middle East Office, c/o American Embassy, B-1000, Brussels, Belgium. The request should be forwarded through an appropriate FAA Maintenance Inspector, who may add comments and then send it to the Manager, Brussels Aircraft Certification Staff.

(e) The modifications and replacements required by this AD shall be done in accordance with PZL-Mielec Mandatory Engineering Bulletin No. K/02.141/90, dated April 1990. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from PZL-Mielec, Ludowego Wojska Polkiego 3, 39-300 Mielec, Poland. Copies may be inspected at the FAA, Central Region, Office of the Assistant Chief Counsel, room 1558, 601 E. 12th Street, Kansas City, Missouri, or at the Office of the Federal Register, 1100 L Street, NW., room 8401, Washington, DC.

This amendment becomes effective on July 5, 1991.

Issued in Kansas City, Missouri, on May 20, 1991.

Henry A. Armstrong,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 91-12982 Filed 6-3-91; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 39

[Docket No. 90-CE-44-AD; Amendment 39-7022; AD 91-12-11]

Airworthiness Directives; Beech F90, 200, B200, and 300 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that is applicable to Beech F90, 200, B200, and 300 series airplanes. This action requires the inspection and eventual replacement of each cast acrylic cockpit "D" side window with a stretched acrylic window. Cracking, cracking, and delamination have been reported on numerous of the affected cockpit "D" side windows, and four failures (blowouts) of these windows have occurred in the flight compartment (cockpit) of these airplanes. The actions specified by this AD are intended to reduce the possibility of these blowouts and the possible decompression injuries that could result.

EFFECTIVE DATE: July 15, 1991.

ADDRESSES: Beech Service Bulletin No. 2208, Revision 1, dated July 1990, and Beech Service Bulletin No. 2273, Revision 1, dated April 1990, that are discussed in this AD may be obtained from the Beech Aircraft Corporation, Commercial Service, Department 52, P.O. Box 85, Wichita, Kansas 67201-0085; Telephone (316) 681-7111. This information may also be examined at the FAA, Central Region, Office of the Assistant Chief Counsel, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

FOR FURTHER INFORMATION CONTACT: Mr. Don Campbell, Aerospace Engineer, Airframe Branch, Wichita Aircraft Certification Office, 1801 Airport Road, room 100, Mid-Continent Airport, Wichita, Kansas 67209; Telephone (316) 946-4409.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations to include an AD that is applicable to certain Beech F90, 200, B200, and 300 series airplanes was published in the Federal Register on February 13, 1991 (56 FR 5781). The action proposed the inspection and eventual replacement of each cast acrylic cockpit "D" side window with one made of stretched acrylic in accordance with Beech Service Bulletin No. 2273, Revision 1, dated April 1990.

Beech Service Bulletin No. 2273, Revision 1, dated April 1990, specifies installation procedures for stretched

acrylic windows on the Beech Model 300 airplanes. If the affected Model 300 airplanes have stretched acrylic "D" side windows installed in accordance with Beech SB No. 2273 or received stretched acrylic "D" side windows at manufacture, no further action would be required by this AD. No nondestructive testing method exists for determining whether the windows are cast acrylic. If the stretched acrylic "D" side windows were installed at manufacture or by replacement, they will be identified by a placard on the window indicating the applicable part number. If the window is missing such a placard, it must be replaced.

Interested persons have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to the two comments received.

One commenter supports the AD action. The other commenter expressed concern that all the cabin windows were not addressed by the AD. Since the original issue of Beech Service Bulletin 2208 in October 1987, the FAA has received reports of incidents involving only the cockpit "D" side windows. The problems associated with the cabin and baggage compartment windows are being addressed voluntarily by the airplane owners and operators. The FAA is only addressing the "D" side cockpit windows in this AD action. If reports of incidents involving cabin and baggage cast acrylic windows are received, the FAA may take further rulemaking action in the future.

The compliance times have been established in both hours time-in-service and calendar months. The initial inspection must be performed within the next 150 hours time-in-service, and all cast acrylic "D" side windows must be replaced with stretched acrylic windows within the next 12 months. This 12-calendar month compliance requirement has been established because the durability of these cast acrylic "D" windows is affected by general maintenance chemicals regardless of whether the airplane is in operation. This calendar time requirement also sets forth the same compliance criteria as Beech SB No. 2208, Revision 1, dated July 1990. In addition, yearly operational times of these airplanes vary greatly throughout the fleet. To avoid inadvertent grounding of and to assure the airworthiness of the affected airplanes, hours TIS is required for the initial inspections of paragraph (a) of this AD, and calendar months is required for the replacements required by paragraph (a)(3)(ii) of this AD.

The economic analysis paragraph that is discussed below, has been revised to

increase the specific hourly labor rate from \$40 an hour (as was cited in the preamble of the notice of proposed rulemaking (NPRM)) to \$55 an hour. The FAA has determined that it is necessary to increase this rate used in calculating the cost impact associated with AD action to account for various inflationary costs in the aviation industry.

The FAA has determined that air safety and the public interest require the adoption of the rule as proposed except for the change in the economic analysis labor rate and minor editorial corrections. These minor corrections will not change the meaning of the AD nor add any additional burden upon the public than was already proposed.

It is estimated that 1,608 airplanes in the U.S. registry will be affected by this AD, that it will take approximately 10.5 hours per airplane to accomplish the required action, and that the average labor rate is approximately \$55 an hour. Parts cost approximately \$1,366 per airplane. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be \$3,125,148.

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this action (1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the final evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption "ADDRESSES".

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends 14 CFR part 39 of the Federal Aviation Regulations as follows:

PART 39—[AMENDED]

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g); and 14 CFR 11.89.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new AD:

AD 91-12-11 Beech: Amendment 39-7022; Docket No. 90-CE-44-AD. Applicability: Model F90 airplanes (serial number (S/N) LA-2 through LA-236); Models 200 and B200 airplanes (S/N BB-2 through BB-1212); Models 200C and B200C airplanes (S/N BL-1 through BL-72); Models 200 CT and B200CT airplanes (S/N BN-1 through BN-4); Models 200T and B200T airplanes (S/N BT-1 through BT-30); and Model 300 airplanes (S/N FA-7 through FA-56), certificated in any category.

Compliance: Required as indicated after the effective date of this AD, unless already accomplished.

To prevent cracking and possible blowout of cast acrylic cockpit "D" side windows that could result in decompression injuries, accomplish the following:

(a) Within the next 150 hours time-in-service after the effective date of this AD, accomplish the following:

(1) Determine if the airplane "D" side window contains a placard bearing one of the part numbers presented below. If it does, then the window is made of stretched acrylic and no further action per this AD is required.

Model	Part No.
F90, 200, 200C, 200CT, 200T, B200, B200C, B200CT, and B200T.	101-420081-5 through 101-420081-10; 50-420066-419, 50-420066-420, 50-420066-437, or 50-420066-438.
300.....	101-420081-9 through 101-420081-12.

(2) If a Model 300 airplane has a "D" side window installed in accordance with Beech Service Bulletin (SB) 2273, Revision 1, dated April 1990, then the window is stretched acrylic and no further action per this AD is required.

(3) If a cast acrylic "D" side window is installed or if the window material cannot be determined, prior to further flight, inspect the window for cracks, chips, stress crazes, fissure scratches, or other damage in accordance with part I of Beech SB No. 2208, Revision 1, dated July 1990.

(i) If cracks, chips, stress crazes, fissure scratches, or other damage that exceeds the limits specified in Beech SB No. 2208, Revision 1, dated July 1990, is found, prior to further flight, except as noted in paragraph (b) of this AD, replace the window with the applicable stretched acrylic window listed in paragraph (a)(1) of this AD.

(ii) If no cracks, chips, stress crazes, fissure scratches, or other damage that exceeds the

limits specified in Beech SB No. 2208, Revision 1, dated July 1990, is found, within the next 12 calendar months, except as noted in Paragraph (b) of this AD, replace each cast acrylic "D" side window in the crew compartment with the applicable stretched acrylic window listed in paragraph (a)(1) of this AD.

(b) If stretched acrylic windows are not available, but have been ordered, the airplane may be operated unpressurized until the stretched acrylic windows are installed provided that the placards specified on page 10 of Beech SB No. 2208, Revision 1, dated July 1990, are installed in clear view of the pilot's position.

(c) Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a location where the requirements of this AD can be accomplished.

(d) An alternative method of compliance or adjustment of the compliance times that provides an equivalent level of safety may be approved by the Manager, Wichita Aircraft Certification Office, FAA, 1801 Airport Road, room 100, Wichita, Kansas 67209. The request should be forwarded through an appropriate FAA Maintenance Inspector, who may add comments and send it to the Manager, Wichita Aircraft Certification Office.

(e) All persons affected by this directive may obtain copies of the documents referred to herein upon request to the Beech Aircraft Corporation, Commercial Service, Department 52, Wichita, Kansas 67201-0085 or may examine these documents at the FAA, Central Region, Office of the Assistant Chief Counsel, room 1558, 601 E. 12th Street, Kansas City, Missouri 64108.

This amendment becomes effective on July 15, 1991.

Issued in Kansas City, Missouri, on May 21, 1991.

Herman C. Belderok,

Acting Manager, Small Airplane Directorate,
Aircraft Certification Service.

[FR Doc. 91-13099 Filed 6-3-91; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 39

[Docket No. 91-NM-102-AD; Amendment 39-7019; AD 91-12-08]

Airworthiness Directives; Boeing Model 747-400-Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to all Boeing Model 747-400 series airplanes, which requires an inspection to determine if a certain Collins distance measuring equipment (DME) part number is installed. If that DME is installed, then a limitation must be placed in the FAA-approved airplane flight manual (AFM) to prohibit terminal area and en route navigation (RNAV)

operations under certain conditions. This amendment is prompted by reports that a certain DME can cause erroneous distance information to be displayed to the flight crew and sent to the flight management computer (FMC). This condition, if not corrected, could result in decreased en route RNAV accuracy, decreased terminal area navigation capabilities, or missed approaches, and may necessitate the use of an alternative means of navigation for approach or necessitate diverting to an alternative airport.

EFFECTIVE DATE: June 17, 1991.

FOR FURTHER INFORMATION CONTACT:

Mr. Stephen M. Slotte, Seattle Aircraft Certification Office, Systems and Equipment Branch, ANM-130S; telephone (206) 227-2797. Mailing address: FAA, Northwest Mountain Region, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington 98055-4056.

SUPPLEMENTARY INFORMATION: An anomaly has been reported in the distance measuring equipment (DME) that may be installed on Boeing Model 747-400 series airplanes. This anomaly causes erroneous DME information to be displayed to the flight crew and sent to the flight management computer (FMC). When this anomaly occurs, the left or right DME interrogator may output either "No Data" or erroneous distance data without a flight deck warning. The DME display will either be blank or provide erroneous distance information. On a 30-second cycle, the erroneously displayed distance will change at a rate equal to the rate of change of distance to the ground station at the time the anomaly occurred, then jump back to the original distance. If the affected channel is retuned either manually or by the FMC, the DME display will go blank. DME-supplied data to the FMC is immediately detected and the erroneous DME information and radio updating of the FMC position on the affected side is locked out. Also, the navigational display on the affected side will not display "DD" (DME-DME) or "VD" (VOR-DME) as the FMC position updating mode.

If this anomaly occurs to the DME on the side of the master FMC, the ability of the slave FMC to radio update may also be affected. If radio updating is unavailable for a specified period, the flight management system-control display unit (FMS-CDU) message "IRS NAV ONLY" will be displayed. The FMC will then navigate without continuous radio updating.

This condition, if not corrected, could result in decreased en route RNAV accuracy, decreased terminal area

navigation capabilities, or missed approaches, and may necessitate the use of an alternative means of navigation for approach or necessitate diverting to an alternative airport.

Since this condition is likely to exist on other airplanes of the same type design, this AD requires the inspection of all Boeing Model 747-400 series airplanes to determine if Collins DME part number 622-4540-120 is installed. If that DME is installed on the airplane, a limitation must be placed in the FAA-approved airplane flight manual (AFM) to prohibit terminal area and en route area navigation (RNAV) operations under certain conditions.

The FAA considers this to be an interim action and will consider further rulemaking when a corrective modification is developed and approved.

Since a situation exists that requires immediate adoption of this regulation, it is found that notice and public procedure hereon are impracticable, and good cause exists for making this amendment effective in less than 30 days.

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12812, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

The FAA has determined that this regulation is an emergency regulation and that it is not considered to be major under Executive Order 12291. It is impracticable for the agency to follow the procedures of Executive Order 12291 with respect to this rule since the rule must be issued immediately to correct an unsafe condition in aircraft. It has been determined further that this action involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979). If it is determined that this emergency regulation otherwise would be significant under DOT Regulatory Policies and Procedures, a final regulatory evaluation will be prepared and placed in the Rules Docket (otherwise, an evaluation is not required). A copy of it, if filed, may be obtained from the Rules Docket.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends 14 CFR part 39 of the Federal Aviation Regulations as follows:

PART 39—[AMENDED]

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g) [Revised Pub. L. 97-449, January 12, 1983]; and 14 CFR 11.89.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

91-12-08. Boeing: Amendment 39-7019.
Docket 91-NM-102-AD.

Applicability: All Model 747-400 series airplanes, certificated in any category.

Compliance: Required as indicated within 10 days after the effective date of this AD, unless previously accomplished.

To prevent the use of erroneous DME information, decreased enroute RNAV accuracy, decreased terminal area navigation capabilities, and an increase in missed approaches, accomplish the following:

(a) Inspect the airplane or airplane records to determine if Collins distance measuring equipment (DME) part number 822-4540-120 is installed.

(1) If that Collins DME part number is not installed on the airplane, no further action is required.

(2) If that Collins DME part number is installed, prior to further flight, add the following statements to the Limitations Section of the FAA-approved airplane flight manual (AFM). This may be accomplished by placing a copy of this AD in the AFM.

Electronic Systems**Flight Management Computer System**

If the FMS-CDU message "IRS NAV ONLY" is displayed in an area where radio updating is expected, terminal area and enroute RNAV operations using the affected FMC are prohibited and the associated DME must be considered inoperative. RNAV operations may be resumed if radio updating is reestablished by the affected FMC.

Distance Measuring Equipment

During approaches requiring DME, left and right DMEs must be tuned to the same station and monitored. If a difference is noted, only that DME which results in a display of "DD" or "VD" on the navigational display may be used for approach.

(b) An alternative method of compliance or adjustment of the compliance time, which provides an acceptable level of safety, may be used when approved by the Manager, Seattle Aircraft Certification Office (ACO), FAA, Transport Airplane Directorate.

Note: The request should be forwarded through an FAA Principal Operations Inspector, who may concur or comment and then send it to the Manager, Seattle ACO.

(c) Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base in order to comply with the requirements of this AD.

This amendment (39-7019, AD 91-12-08) becomes effective June 17, 1991.

Issued in Renton, Washington, on May 21, 1991.

Leroy A. Keith,

Manager, Transport Airplane Directorate,
Aircraft Certification Service.

[FR Doc. 91-13100 Filed 6-3-91; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF COMMERCE**Technology Administration****15 CFR Part 295**

[Docket No. 900130-0152]

Advanced Technology Program

AGENCY: Technology Administration, Commerce.

ACTION: Final rule; nomenclature change.

SUMMARY: On July 24, 1990, the Under Secretary of Commerce for Technology issued a final rule adding 15 CFR part 295 (55 FR 30140) to implement the Advanced Technology Program (hereinafter "ATP"). The ATP was authorized by section 5131 of the Omnibus Trade and Competitiveness Act of 1988, codified at 15 U.S.C. 278n. Section 295.4, entitled Notice of Availability of Funds, contains paragraph (b), which requires that proposals filed under the ATP must be submitted with a Standard Form 424. Since the time of the issuance of the final rule, the Standard Form 424 has been replaced with the NIST 1262 or NIST 1263 forms. Therefore, § 295.4(b) of 15 CFR part 295 must be amended to reflect this change.

EFFECTIVE DATE: June 4, 1991.

FOR FURTHER INFORMATION CONTACT: Philip J. Greene (202) 377-5394.

SUPPLEMENTARY INFORMATION: Because this rulemaking document concerns agency organization and management, it is not a rule or regulation within the meaning of section 1(a) of Executive Order 12291, and is not subject to the requirements of that order.

Because a notice of proposed rulemaking and an opportunity for public comment are not required to be given for this rule by section 553 of the Administrative Procedures Act (5 U.S.C. 553), or by any other law, no regulatory flexibility analysis has to be or will be prepared for purposes of the Regulatory Flexibility Act (5 U.S.C. 603(a) and 604(a)).

This final rule does not contain policies with Federalism implications sufficient to warrant preparation of a Federalism assessment under Executive Order 12612. This information collection has been approved by the Office of Management and Budget under Control No. 0693-0009.

List of Subjects in 15 CFR Part 295

Science and technology, Inventions and patents, Laboratories, Research, Scientists.

PART 15—[AMENDED]

For the reasons set forth in the Preamble, 15 CFR part 295 is amended as follows:

§ 295.4 [Amended]

1. The authority citation for 15 CFR part 295 continues to read as follows:

Authority: 15 U.S.C. 271 et seq., and sec. 5131 of the Omnibus Trade and Competitiveness Act of 1988, Pub. L. 100-418, 102 Stat. 1439, 15 U.S.C. 278n.

2. In 15 CFR 295.4(b) remove the words "Standard Form 424" and add, in their place, the words "NIST 1262 or NIST 1263."

3. The following OMB Control Number is added at the end of § 295.4:

(Approved by the Office of Management and Budget under Control Number 0693-0009)

Dated: May 28, 1991.

Robert M. White,

Under Secretary of Commerce for
Technology.

[FR Doc. 91-13096 Filed 6-3-91; 8:45 am]

BILLING CODE 3510-13-M

DEPARTMENT OF THE TREASURY**Customs Service****19 CFR Part 162**

[T.D. 91-52]

Administrative Forfeiture of Seized Property

AGENCY: U.S. Customs Service,
Department of the Treasury.

ACTION: Final rule.

SUMMARY: This document amends the Customs Regulations to conform to the provisions of the Customs and Trade Act of 1990 which increased the dollar amount of property which can be administratively forfeited from \$100,000 to \$500,000 and to include monetary instruments as property which may be administratively forfeited. Additionally, the Customs Regulations are amended to raise the ceiling for the amount of the

bond filed by a claimant to administratively forfeited property from \$2,500 to \$5,000. These changes will increase the efficiency of Customs seized property program.

DATES: June 4, 1991.

FOR FURTHER INFORMATION CONTACT: Jeremy Baskin, Penalties Branch (202-566-8317).

SUPPLEMENTARY INFORMATION:

Background

The Customs and Trade Act of 1990 in section 612 (Pub. L. 101-382) amended section 607 of the Tariff Act of 1930, as amended (19 U.S.C. 1607), to provide for the administrative forfeiture of seized property where the value of the seized vessel, vehicle, aircraft, merchandise, or baggage does not exceed \$500,000. Prior to this amendment, administrative forfeiture could not be used if the property exceeded \$100,000 in value. The Customs Regulations are being amended to reflect this higher limit.

The Customs and Trade Act of 1990 also amended section 607 of the Tariff Act of 1930 by providing for the administrative forfeiture of seized merchandise where "such seized merchandise is any monetary instrument within the meaning of section 5312(a)(3) of title 31 of the United States Code." Pursuant to this amendment, Customs may commence administrative forfeiture proceedings against all monetary instruments seized for violation of monetary instrument reporting requirements, money laundering or other violations for which Customs has authority to seize and forfeit. This additional area for exercise of administrative forfeiture authority is being added to the Customs Regulations.

The Customs Regulations currently provide in § 162.45(a)(3) and 162.47(b) (19 CFR 162.45(a)(3), 162.47(b)) for a ceiling amount of \$2,500 for the bond filed by a claimant to administratively forfeited property. The Customs Regulations are being amended to provide, as now required by section 608, Tariff Act of 1930, as amended (19 U.S.C. 1608) that a claimant to administratively forfeited property is required to file a bond in the penal sum of \$5,000 or 10 percent of the value of the claimed property, whichever is lower, but not less than \$250.

Inapplicability of Notice and Delayed Effective Date Provisions

Inasmuch as this amendment implements statutory requirements, pursuant to 5 U.S.C. 552(b)(B), notice and public procedure thereon are unnecessary. Similarly, pursuant to 5

U.S.C. 553(d)(1), (3), a delayed effective date is not provided.

Executive Order 12291 and Regulatory Flexibility Act

In that this amendment does not meet the criteria for a "major rule" within the meaning of Executive Order 12291, Customs has not prepared a regulatory impact analysis. Inasmuch as a notice of proposed rulemaking is not required for this final regulation, the provisions of the Regulatory Flexibility Act (5 U.S.C. 601, *et seq.*) do not apply.

Drafting Information

The principal author of this document was Michael Smith, Regulations and Disclosure Law Branch, Office of Regulations and Rulings, U.S. Customs Service. However, personnel from other offices participated in its development.

List of Subjects in 19 CFR Part 162

Administrative practice and procedure, Law enforcement, Penalties, Seizures and forfeitures, Reporting and recordkeeping requirements.

Amendments to the Regulations

Accordingly, part 162, Customs Regulations (19 CFR part 162), is amended as set forth below:

PART 162—RECORDKEEPING, INSPECTION, SEARCH, AND SEIZURE

1. The general authority for part 162 and the authority for § 162.47 continue to read as follows and an authority for § 162.45 is added:

Authority: 5 U.S.C. 301; 19 U.S.C. 66, 1624.

* * * * *

§ 162.45 also issued under 19 U.S.C. 1607, 1608;

* * * * *

§ 162.47 also issued under 19 U.S.C. 1608.

§ 162.45 [Amended]

2. Section 162.45(a) is amended by removing the amount "\$100,000" and adding in its place "\$500,000"; and by adding after the words "controlled substance," the phrase "or such seized merchandise is any monetary instrument within the meaning of 31 U.S.C. 5312(a)(3)."

3. In section 162.45(a)(3) remove the amount "\$2,500" and add in its place "\$5,000".

§ 162.47 [Amended]

4. Section 162.47(a) is amended by adding after the words "Tariff Act of 1930" the phrase ", as amended"; and by removing the amount of "\$100,000" and adding in its place "\$500,000"; and by adding after the words "controlled substance," the phrase "or in the amount of any monetary instruments

within the meaning of 31 U.S.C. 5312(a)(3)."

5. Section 162.47(b) is amended by removing the amount "\$2,500" and adding in its place "\$5,000"; and by adding after the words "Tariff Act of 1930" the phrase ", as amended"

Carol Hallett,

Commissioner of Customs.

Approved: May 8, 1991.

John P. Simpson,

Acting Assistant Secretary of Treasury.

[FR Doc. 91-13127 Filed 6-3-91; 8:45 am]

BILLING CODE 4820-02-M

Internal Revenue Service

26 CFR Parts 42 and 602

[T.D. 8351]

RIN 1545-AP22

Fuel Floor Stocks Tax of 1990

AGENCY: Internal Revenue Service, Treasury.

ACTION: Final regulations.

SUMMARY: This document contains final regulations relating to the floor stocks taxes on gasoline, diesel fuel, and aviation fuel held on December 1, 1990. These rules reflect changes to the law made by the Revenue Reconciliation Act of 1990. The final regulations provide guidance relating to the person liable for the tax, exemptions from the tax, and reporting and recordkeeping responsibilities for the tax.

EFFECTIVE DATE: These regulations are effective December 1, 1990.

FOR FURTHER INFORMATION CONTACT: Frank Boland, (202) 566-4475 (not a toll-free call).

SUPPLEMENTARY INFORMATION:

Paperwork Reduction Act

The collection of information contained in this final regulation has been reviewed and approved by the Office of Management and Budget in accordance with the Paperwork Reduction Act of 1980 (44 U.S.C. 3504(h)) under control number 1545-1206. The estimated average burden per recordkeeper is 0.5 hour.

These estimates are an approximation of the average time expected to be necessary for a collection of information. They are based on such information as is available to the Internal Revenue Service. Individual recordkeepers may require greater or less time depending on their particular circumstances.

Comments regarding the accuracy of this burden estimate and suggestions for reducing this burden should be directed to the Internal Revenue Service, Attn: IRS Reports Clearance Office, T:FP, Washington, DC 20224, and to the Office of Management and Budget, Attention: Desk Officer for the Department of the Treasury, Office of Information and Regulatory Affairs, Washington, DC 20503.

Background

On December 3, 1990, the *Federal Register* (55 FR 49908) published proposed amendments to the regulations (26 CFR part 42) under sections 11211 and 11213 of the Revenue Reconciliation Act of 1990, Public Law 101-508 (the "1990 Act"). A public hearing was not requested and none was held. However, several comments were received. After consideration of all comments regarding the proposed regulations, the proposed regulations are adopted as final regulations as revised by this Treasury decision.

Explanation of Provisions

The preamble to the December 3, 1990, notice of proposed rulemaking contains an explanation of the proposed regulations, that except as discussed below, is applicable to the final regulations.

Public Comments

Method of payment. The proposed regulations required that payment of the floor stocks tax be made by deposit, using Form 8109, Federal Tax Deposit Coupon. This form may be used only by persons that have been assigned an employer identification number ("EIN"). Several commentators stated that some small businesses that are liable for the tax do not have an EIN, but would be required to obtain one for the sole purpose of paying this tax. To relieve this burden on small business, § 42.5(c) has been revised to allow all taxpayers to pay the tax either (1) with the return (Form 720, *Quarterly Federal Excise Tax Return* (Revised January 1991)), or (2) by deposit. Any taxpayer without an EIN may use his or her social security number on Form 720. The instructions for Form 720 contain complete information on paying the tax and filing the return.

State-owned trains. One commentator suggested that diesel fuel held for use in state-owned, public passenger trains should not be subject to the floor stocks tax. This suggestion was not adopted in the final regulations because section 11211(j)(1) of the 1990 Act imposes the floor stocks tax on diesel fuel held for use in any train. Section 11211(j)(5) of

the 1990 Act allows an exemption from the floor stocks tax for fuel held for a use that is exempt from the diesel fuel tax, but the Code does not provide an excise tax exemption for state-owned trains. See sections 4093(c)(2)(B) and 6427(1)(4) of the Code. If enacted, section 102(b)(3)(B) of the Technical Corrections Act of 1991, as introduced in the House of Representatives, retroactively would exempt diesel fuel used in a train by a state or any political subdivision thereof from both the diesel fuel excise tax and the floor stocks tax.

Fuel held for own use. Several commentators suggested that fuel held in storage tanks by businesses for use in their own highway vehicles should not be subject to the floor stocks tax, even though the amount of fuel held in their storage tanks exceeded the thresholds described in section 11211(j)(7) of the 1990 Act. This suggestion was not adopted in the final regulations because section 11211(j)(1) of the 1990 Act taxes fuel held on December 1, 1990, whether for sale or for use by the holder. Exemptions are provided only for persons that do not hold fuel in excess of the thresholds and for fuel held in fuel supply tanks or used in an exempt use.

Dead storage. One commentator suggested that the regulations provided an exemption for fuel held in "dead storage" (i.e., the amount of fuel held below the mouth of the draw pipe of a storage tank). This commentator noted that section VI(D) of Notice 88-30, 1988-1 C.B. 497, 509, exempted diesel fuel held in dead storage from the 1988 floor stocks tax imposed by section 10502(f) of the Revenue Act of 1987, Public Law 100-203 (the "1987 Act"). Similarly, § 48.4081-1(g)(3)(ii) of proposed regulations (52 FR 44141, 44145) exempted gasoline held in dead storage from the 1988 floor stocks tax imposed by section 1703(f) of the Tax Reform Act of 1986, Public Law 99-514 (the "1986 Act").

The final regulations do not adopt this suggestion. The floor stocks provisions under the 1986 Act and the 1987 Act taxed only fuel that, at the first moment of the relevant date, was held by a dealer for sale. Thus, it was reasonable to exempt from tax fuel held in dead storage because, at the first moment of the relevant date, such fuel was held to facilitate the extraction of other fuel held in the storage tank. The floor stocks tax imposed by the 1990 Act, however, is not limited to fuel held by a dealer for sale. Instead, an exemption is provided for fuel held exclusively for an exempt use. Fuel held in dead storage at the first moment of December 1, 1990, does not qualify for this exemption unless it will

be used for an exempt use when it is removed from dead storage.

Another commentator noted that the floor stocks tax on gasoline applies only to previously-taxed fuel and thus gasoline that qualified for the dead-storage exemption from the floor stocks tax imposed by the 1986 Act should be exempt from the floor stocks tax imposed by the 1990 Act. Except in rare and unusual cases, however, fuel held on December 1, 1990, does not qualify for such an exemption. Even if fuel was held in dead storage when the 1986 Act or 1987 Act floor stocks tax was imposed, it is ordinarily impossible to establish that the same fuel has remained in dead storage during the intervening period.

Special Analyses

It has been determined that these regulations are not major rules as defined in Executive Order 12291. Therefore, a Regulatory Impact Analysis is not required. It also has been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) and the Regulatory Flexibility Act (5 U.S.C. chapter 6) do not apply to these regulations and, therefore, a final Regulatory Flexibility Analysis is not required. Pursuant to section 7805(f) of the Internal Revenue Code, the notice of proposed rulemaking was submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on its impact on small business.

Drafting Information

The principal author of these regulations is Frank Boland, Office of Assistant Chief Counsel (Passthroughs & Special Industries), Internal Revenue Service. However, other persons from the Service and the Treasury Department participated in their development.

List of Subjects

26 CFR Part 42

Excise taxes, Revenue Reconciliation Act of 1990.

26 CFR Part 602

Reporting and recordkeeping requirements.

Adoption of Amendments to the Regulations

Accordingly, 26 CFR, ch. I, is amended as follows:

Paragraph 1. A new part 42 of the Code of Federal Regulations is added as follows:

PART 42—FUEL FLOOR STOCKS TAX FOR 1990

Sec.

- 42.1 Scope of part.
42.2 Definitions relating to the floor stocks tax.
42.3 Imposition of floor stocks tax.
42.4 Exemptions from floor stocks tax.
42.5 Requirements with respect to inventory, payment and return.
42.6 Applicability of other laws.

Authority: 26 U.S.C. 7805 and sections 11211(j) and 11213(b)(5) of the Revenue Reconciliation Act of 1990 (Pub. L. 101-508).

§ 42.1 Scope of part.

The regulations in this part 42 relate to the fuel floor stocks taxes imposed by sections 11211(j) and 11213(b)(5) of the Revenue Reconciliation Act of 1990, Public Law 101-508. The taxes are imposed on previously-taxed gasoline, diesel fuel, and aviation fuel held at the first moment of December 1, 1990, and on diesel fuel held for use in trains on that date. These regulations describe the specific articles subject to tax, the rates of tax, and the persons liable for tax. These regulations also describe exemptions from the tax and requirements for inventory of fuel, payment of tax, and filing a return reporting the tax. These regulations are effective on December 1, 1990.

§ 42.2 Definitions relating to the floor stocks tax.

(a) *Overview.* This section provides definitions for purposes of the regulations in this part.

(b) *Act.* The term *Act* means the Revenue Reconciliation Act of 1990, Public Law 101-508.

(c) *Aviation fuel.* The term *aviation fuel* means any liquid (other than gasoline) that is commonly or commercially known or sold as a fuel that is suitable for use in an aircraft.

(d) *Controlled group—(1) In general.* The term *controlled group* means—

- (i) Any controlled group of corporations (within the meaning of paragraph (d)(2) of this section); and
(ii) Any other group of organizations under common control (within the meaning of paragraph (d)(3) of this section).

(2) *Controlled group of corporations—(i) In general.* The term *controlled group of corporations* has the meaning given that term by section 1563(a), except that the phrase "more than 50 percent" shall be substituted for the phrase "at least 80 percent" each place it appears therein.

(ii) *Excluded members.* For purposes of this part, a controlled group of corporations includes members that are described in section 1563(b) (relating to excluded members).

(iii) *Examples of controlled groups.* Under section 1563(a), controlled groups of corporations include, but are not limited to—

- (A) Parent-subsidiary controlled groups as defined in § 1.1563-1(a)(2);
(B) Brother-sister controlled groups as defined in § 1.1563-1(a)(3); and
(C) Combined groups as defined in § 1.1563-1(a)(4).

(3) *Group of organizations under common control.* The term "group of organizations under common control" means any group of organizations (as defined in § 1.52-1(b)) that would be treated as a group of trades or businesses under common control for purposes of § 1.52-1 if—

- (i) The rules of § 1.52-1 were applied without regard to whether an organization conducts a trade or business; and
(ii) The phrase "more than 50 percent" were substituted for "at least 80 percent" each place it appears in § 1.52-1(d)(2).

(e) *Diesel fuel.* The term *diesel fuel* means any liquid (including a diesel fuel/alcohol mixture but not including gasoline) that is commonly or commercially known or sold as a fuel that is suitable for use in a diesel-powered highway vehicle or diesel-powered train.

(f) *Diesel fuel/alcohol mixture.* The term *diesel fuel/alcohol mixture* means any mixture described in section 4091(c)(1)(A).

(g) *Floor stocks tax.* The term *floor stocks tax* means the tax imposed by sections 11211(j) and 11213(b)(5) of the Act on fuel held at the first moment of December 1, 1990.

(h) *Fuel.* The term *fuel* means gasoline, diesel fuel, and aviation fuel.

(i) *Gasohol.* The term *gasohol* means any mixture treated as gasohol for purposes of section 4081(c).

(j) *Gasoline.* The term *gasoline* means—

- (1) All products (including gasohol) that are commonly or commercially known or sold as gasoline and are suitable for use as a motor fuel (other than products that are not sold as gasoline and have an American Society for Testing Materials octane number of less than 75 as determined by the "motor method"); and
(2) All products that are listed in Revenue Ruling 88-70, 1988-2 Cumulative Bulletin 338, as "gasoline blend stocks" or "products commonly used as additives in gasoline."

(k) *Train.* The term *train* means any equipment or machinery that rides on rails regardless of whether the equipment or machinery transports passengers, freight, or a combination of

both passengers and freight. Thus, the term includes a locomotive, work train, switching engine, or track maintenance machine. The term "train" does not include any equipment or machinery that does not ride on rails.

§ 42.3 Imposition of floor stocks tax.

(a) *Overview.* This section identifies the fuels subject to the floor stocks tax, the applicable rates of tax, and the persons liable for the tax.

(b) *Fuels subject to tax and rates of tax—(1) Gasoline—(i) Imposition of tax.* Section 11211(j)(1)(A) of the Act imposes a floor stocks tax on gasoline (including gasohol)—

(A) On which tax was imposed under section 4081 before December 1, 1990; and

(B) Which is held at the first moment of December 1, 1990, by any person.

(ii) *Generally applicable rate of tax.*

Except as otherwise provided in paragraph (b)(1)(iii) of this section, the rate of floor stocks tax on gasoline is 5 cents per gallon.

(iii) *Rates relating to gasohol.* The rate of floor stocks tax under this paragraph (b)(1) is—

(A) 5 cents per gallon in the case of gasohol;

(B) 6.22 cents per gallon in the case of gasoline that was taxed at a reduced rate under section 4081(c) and is used in producing gasohol that contains ethanol;

(C) 5.56 cents per gallon in the case of gasoline that was taxed at a reduced rate under section 4081(c) and is used in producing gasohol that does not contain ethanol;

(D) .55 cent per gallon in the case of gasoline that was not taxed at a reduced rate under section 4081(c) and is used in producing gasohol that contains ethanol (and no amount is recoverable pursuant to section 6427(f) with respect to such gasoline); and

(E) Zero in the case of gasoline that was not taxed at a reduced rate under section 4081(c) and is used in producing gasohol that does not contain ethanol (and .11 cent per gallon is recoverable pursuant to section 6427(f) with respect to such gasoline).

(2) *Diesel fuel—(i) Imposition of tax.* Section 11211(j)(1)(A) of the Act imposes a floor stocks tax on diesel fuel (including diesel fuel/alcohol mixtures)—

(A) On which tax was imposed at a Highway Trust Fund financing rate under section 4091 before December 1, 1990; and

(B) Which is held at the first moment of December 1, 1990, by any person.

(ii) *Generally applicable rate of tax.* Except as otherwise provided in

paragraph (b)(2)(iii) of this section, the rate of floor stocks tax on diesel fuel described in paragraph (b)(2)(i) of this section is 5 cents per gallon.

(iii) *Rates relating to diesel fuel/alcohol mixtures.* The rate of floor stocks tax under this paragraph (b)(2) is—

(A) 5 cents per gallon in the case of a diesel fuel/alcohol mixture;

(B) 6.22 cents per gallon in the case of diesel fuel that was taxed at a reduced rate under section 4091(c)(1)(B) and is used in producing a diesel fuel/alcohol mixture that contains ethanol;

(C) 5.56 cents per gallon in the case of diesel fuel that was taxed at a reduced rate under section 4091(c)(1)(B) and is used in producing a diesel fuel/alcohol mixture that does not contain ethanol;

(D) 1.22 cents per gallon in the case of diesel fuel that was not taxed at a reduced rate under section 4091(c)(1)(B) and is used in producing a diesel fuel/alcohol mixture that contains ethanol (and no amount is recoverable pursuant to section 6427(f) with respect to such diesel fuel); and

(E) .56 cent per gallon in the case of diesel fuel that was not taxed at a reduced rate under section 4091(c)(1)(B) and is used in producing a diesel fuel/alcohol mixture that does not contain ethanol (and no amount is recoverable pursuant to section 6427(f) with respect to such diesel fuel).

(3) *Diesel fuel held for use in trains—*
(i) *Imposition of tax.* Section 11211(j)(1)(B) of the Act imposes a floor stocks tax on diesel fuel—

(A) On which no tax was imposed at a Highway Trust Fund financing rate under section 4091 before December 1, 1990; and

(B) Which is held at the first moment of December 1, 1990, by any person and is used by that person to propel a train on rails.

(ii) *Rate of tax.* The rate of floor stocks tax under this paragraph (b)(3) is 2.5 cents per gallon.

(4) *Aviation fuel—*(i) *Imposition of tax.* Section 11213(b)(5) of the Act imposes a floor stocks tax on aviation fuel—

(A) On which tax was imposed under section 4041(c)(1) or 4091 before December 1, 1990; and

(B) Which is held at the first moment of December 1, 1990, by any person.

(ii) *Rate of tax.* The rate of floor stocks tax under this paragraph (b)(4) is 3.5 cents per gallon.

(c) *Person liable for tax—*(1) *In general.* The person liable for the floor stocks tax on any fuel subject to tax is the person that holds the fuel at the first moment of December 1, 1990. For purposes of the floor stocks tax, fuel is

held at the first moment of December 1, 1990, by the person that has title to the fuel (whether or not delivery to that person has been made) at such time, as determined under applicable local law.

(2) *Special rule.* Each business unit that has, or is required to have, its own employer identification number is treated as a separate person for purposes of the floor stocks tax. For example, a chain of retail service stations that has one employer identification number is one person for purposes of the floor stocks tax and a parent corporation and a subsidiary that each have a different employer identification number are two persons for purposes of the floor stocks tax.

(d) *Treatment of fuel in foreign trade zones.* Notwithstanding the Act of June 18, 1934 (48 Stat. 998, 19 U.S.C. 61a) or any other provision of law, any fuel that is located in a foreign trade zone at the first moment of December 1, 1990, shall be subject to floor stocks tax if—

(1) Internal revenue taxes have been determined, or customs duties liquidated, with respect to such fuel before December 1, 1990, pursuant to a request made under the first proviso of section 3(a) of the Act of June 18, 1934; or

(2) Such fuel is held at the first moment of December 1, 1990, under the supervision of a customs officer pursuant to the second proviso of such section 3(a).

§ 42.4 Exemptions from floor stocks tax.

(a) *Overview.* This section provides rules for determining exemptions from the floor stocks tax. Generally, tax is not imposed on—

(1) Fuel held exclusively for an exempt use;

(2) Gasoline or diesel fuel held in the tank of a motor vehicle or motorboat; or

(3) Gasoline or diesel fuel held by a person if the person does not hold more than a specified amount of that fuel.

(b) *Fuel held for exempt uses—*(1) *Gasoline.* The floor stocks tax does not apply to gasoline held exclusively for an exempt use. In determining whether gasoline is held exclusively for an exempt use, the following rules apply:

(i) Except as otherwise provided in paragraph (b)(1)(ii) of this section, the term "exempt use" means, with respect to gasoline, any use that is described in section 6420, 6421 or 6427 and that entitles the user to a credit or refund of the tax imposed by section 4081. These uses include use on a farm for farming purposes; use in an off-highway business use; use in certain intercity, local and school buses; exclusive use by a state or local government or nonprofit

educational organization; and use in commercial aircraft.

(ii) Use of gasoline in producing gasohol is not an exempt use under this paragraph (b)(1).

(iii) Gasoline is held exclusively for an exempt use only if—

(A) The person that holds the gasoline at the first moment of December 1, 1990, actually uses the gasoline in an exempt use; or

(B) A gasoline wholesale distributor described in section 6416(a)(4) holds the gasoline at the first moment of December 1, 1990, and sells the gasoline at a tax-excluded price for a use described in section 6416(b)(2).

(iv) Except as provided in paragraph (b)(1)(iii) of this section, gasoline is not held exclusively for an exempt use if, at the first moment of December 1, 1990, the gasoline is held for resale (including resale to a person that will use the gasoline in an exempt use). Thus, for example, gasoline held by a gasoline service station is not exempt from the floor stocks tax under this paragraph (b)(1) if it will be sold to a farmer for use on a farm for farming purposes. However, the farmer would be eligible to claim an income tax credit for the tax under sections 34 and 6420.

(2) *Diesel fuel.* The floor stocks tax does not apply to diesel fuel held exclusively for an exempt use. In determining whether diesel fuel is held exclusively for an exempt use, the following rules apply:

(i) Except as otherwise provided in paragraph (b)(2)(ii) or (iii) of this section, the term "exempt use" means, with respect to diesel fuel, any use that is described in section 6427 and that entitles the user to a credit or refund of the tax imposed by section 4091. These uses include use other than as a fuel in a diesel-powered highway vehicle (as defined in § 48.4041-8(b)(4)), use on a farm for farming purposes, exclusive use by a state or local government or nonprofit educational organization, and use in an off-highway business use.

(ii) Diesel fuel held for use in a diesel-powered train is not exempt from the floor stocks tax under this paragraph (b)(2) even if the fuel is held by a state or local government. Similarly, the exemptions for use other than as fuel in a diesel-powered highway vehicle and off-highway business use do not apply to fuel used in a diesel-powered train. See section 6427(1)(4), as added by the Act.

(iii) Use of diesel fuel in producing a diesel fuel/alcohol mixture is not an exempt use under this paragraph (b)(2).

(iv) The floor stocks tax does not apply to diesel fuel held for use in a bus

if a credit for, or a refund of, the tax, in whole or in part, is allowable for diesel fuel used in the bus under section 6427(b). Thus, for example, the floor stocks tax does not apply to diesel fuel held for use in an intercity bus if the diesel fuel was previously subject to tax at a reduced rate of 3 cents per gallon or 3.1 cents per gallon.

(v) Diesel fuel is held exclusively for an exempt use only if the person that holds the fuel at the first moment of December 1, 1990, actually uses the diesel fuel in an exempt use.

(vi) Diesel fuel is not held exclusively for an exempt use if, at the first moment of December 1, 1990, the diesel fuel is held for resale (including resale to a person that will use the diesel fuel in an exempt use). Thus, for example, diesel fuel held by a retailer is not exempt from the floor stocks tax under this paragraph (b)(2) if it will be sold to a construction company for use in the construction company's off-road machinery. However, the construction company would be eligible to claim a credit or refund of the tax under sections 34 and 6427.

(3) *Aviation fuel.* The floor stocks tax does not apply to aviation fuel held exclusively for an exempt use. If determining whether aviation fuel is held exclusively for an exempt use, the following rules apply:

(i) The term *exempt use* means, with respect to aviation fuel, any use that is described in section 6427 and that entitles the user to a credit or refund of the tax imposed by section 4091. These uses include use other than as a fuel in an aircraft in noncommercial aviation (as defined in section 4041(c)), use on a farm for farming purposes, and exclusive use by a state or local government or nonprofit educational organization.

(ii) Aviation fuel is held exclusively for an exempt use only if the person that holds the aviation fuel at the first moment of December 1, 1990, actually uses the aviation fuel in an exempt use.

(iii) Aviation fuel is not held exclusively for an exempt use if, at the first moment of December 1, 1990, the aviation fuel is held for resale (including resale to a person that will use the aviation fuel in an exempt use). Thus, for example, aviation fuel held by a fixed base operator is not exempt from the floor stocks tax under this paragraph (b)(3) if it will be sold to an airline for use in commercial aviation. However, the airline would be eligible to claim a credit or refund of the tax under sections 34 and 6427.

(c) *Exemption for gasoline or diesel fuel held in vehicle tank.* The floor stocks tax does not apply to gasoline or

diesel fuel held, at the first moment of December 1, 1990, in the fuel supply tank of a motor vehicle (as defined in § 48.4041-8(c)) or motorboat. Fuel held in the fuel supply tank of a train or an aircraft is not exempt from the floor stocks tax under this paragraph (c).

(d) *Exemption for certain amounts of fuel—(1) In general.* The floor stocks tax does not apply to—

(i) Gasoline that a person holds at the first moment of December 1, 1990, if the aggregate amount of gasoline held by that person at that time does not exceed 4,000 gallons; and

(ii) Diesel fuel that a person holds at the first moment of December 1, 1990, if the aggregate amount of diesel fuel held by that person at that time does not exceed 2,000 gallons.

(2) *Additional rules.* The following additional rules apply for purposes of this paragraph (d):

(i) *Aviation fuel.* Aviation fuel is not exempt from the floor stocks tax merely because it is held in *de minimis* amounts at the first moment of December 1, 1990.

(ii) *Coordination with other exemptions.* In determining the aggregate amount of gasoline or diesel fuel held by a person at the first moment of December 1, 1990, there shall be excluded the amount of gasoline or diesel fuel exempt from the floor stocks tax by reason of paragraph (b) of this section (relating to fuel held for exempt uses), or paragraph (c) of this section (relating to gasoline and diesel fuel held in the tank of a vehicle).

(iii) *All amounts held subject to tax if threshold exceeded.* The floor stocks tax applies to all amounts of gasoline (or diesel fuel, as the case may be) held by a person at the first moment of December 1, 1990 (and not exempt from tax under paragraph (b) or (c) of this section) if the aggregate amount of such fuel exceeds 4,000 gallons (2,000 gallons in the case of diesel fuel).

(iv) *Controlled groups.* Gasoline (or diesel fuel) held by a member of a controlled group (as defined in § 42.2(d)) is not exempt from the floor stocks tax under this paragraph (d) if the aggregate amount of all gasoline (or diesel fuel, as the case may be) held by all members of the controlled group exceeds 4,000 gallons (2,000 gallons in the case of diesel fuel).

(3) *Examples.* The following examples illustrate the rules of this paragraph (d):

Example 1. A holds 10,000 gallons of gasoline on December 1, 1990, 6,000 of which are held exclusively for use on a farm for farming purposes. The remaining 4,000 gallons are held for use in A's highway vehicles. A is not a member of a controlled group. A is not subject to the floor stocks tax on any of the 10,000 gallons because the

aggregate amount of fuel held by A for uses other than exempt uses does not exceed 4,000 gallons.

Example 2. On December 1, 1990, B holds 1,900 gallons of diesel fuel and 3,900 gallons of gasoline. B is not a member of a controlled group. B is not liable for the floor stocks tax on diesel fuel because B's holdings of diesel fuel do not exceed 2,000 gallons. B is not liable for the floor stocks tax on gasoline because B's holdings of gasoline do not exceed 4,000 gallons.

Example 3. On December 1, 1990, C holds 4,100 gallons of gasoline for resale at a service station. C is liable for a floor stocks tax of \$205 (4,100 × \$.05) on that gasoline.

Example 4. D, E, and F are members of the same controlled group. On December 1, 1990, D holds 2,000 gallons of gasoline, E holds 2,500 gallons of gasoline, and F holds 500 gallons of gasoline. None of the gasoline is held for an exempt use or in the fuel supply tank of a motor vehicle. Because the aggregate amount held by all members of the group exceeds 4,000 gallons, all gasoline held by each member is subject to the floor stocks tax. Thus, D is liable for tax of \$100 (2,000 × \$.05), E is liable for tax of \$125 (2,500 × \$.05) and F is liable for tax of \$25 (500 × \$.05).

§ 42.5 Requirements with respect to inventory, payment and return.

(a) *Overview.* This section sets forth requirements for inventory of fuel, payment of tax and filing a return reporting the tax.

(b) *Inventory.* Every person liable for the floor stocks tax, every person holding gasoline or diesel fuel for resale, and every person holding gasoline or diesel fuel for use as a fuel in a trade or business of providing transportation services by motor vehicle (other than a bus to which section 6421(b) or 6427(b) applies) shall prepare an inventory of all gasoline, diesel fuel and aviation fuel held by that person at the first moment of December 1, 1990 (other than fuel on which no tax under section 4081 or 4091 was imposed before December 1, 1990, and gasoline or diesel fuel held in the fuel supply tank of a motor vehicle or motorboat). In addition, every person who, at the first moment of December 1, 1990, holds diesel fuel for use in a train shall prepare an inventory of all such fuel. The inventory shall be determined as of the first moment of December 1, 1990, but work-back and work-forward inventories will be acceptable if supported by adequate commercial records of receipt, use and disposition of the fuel. Persons subject to the inventory requirement of this paragraph (b) must maintain records of the inventory and make the records available for inspection and copying by internal revenue agents and officers. Records of the inventory are not to be filed with the Internal Revenue Service.

(c) *Payment of tax.* The floor stocks tax shall be paid without assessment or notice by May 31, 1991. The payment may be made either—

(1) With the return referred to in paragraph (d) of this section, or

(2) By deposit using Form 8109, *Federal Tax Deposit Coupon*, in accordance with the instructions applicable to that form.

If Form 8109 is used, the boxes on Form 8109 for "720" and "1st Quarter" shall be marked.

(d) *Filing of returns.* (1) *Form 720.* Every person liable for the floor stocks tax shall make a return of the tax on Form 720, *Quarterly Federal Excise Tax Return* (Revised January 1991). The return shall be prepared and filed in accordance with the instructions relating to the return. The applicable Form 720 and its separate instructions may be obtained at many local Internal Revenue Service offices or by calling the following toll-free number: 1-800-829-3676.

(2) *Time for filing Form 720.* The Form 720 reporting liability for the floor stocks tax shall be filed by May 31, 1991. This Form 720 is for the first calendar quarter of 1991. In the case of a person not otherwise required to file Form 720 for that calendar quarter, the return shall be marked "FINAL-FLOOR STOCKS" at the top. Only one Form 720 shall be filed for any calendar quarter. If a person is also required to report liability for other excise taxes for the first calendar quarter of 1991 on Form 720 and that Form 720 would otherwise be due earlier than May 31, 1991, that person shall report the floor stocks tax and the other taxes on one Form 720 filed by May 31, 1991. This rule does not extend the time for making deposits or paying any excise tax.

§ 42.6 Applicability of other laws.

(a) *In general.* All provisions of law, including penalties, applicable with respect to the taxes imposed by section 4081 in the case of gasoline and section 4091 in the case of diesel fuel or aviation fuel shall, insofar as applicable and not inconsistent with the provisions of this part, apply with respect to floor stocks tax to the same extent as if that tax was imposed by section 4081 or section 4091, as the case may be.

(b) *Credits and refunds.* For rules relating to credits and refunds with respect to floor stocks tax paid on gasoline, diesel fuel, or aviation fuel used in an exempt use, see sections 34, 6416, 6420, 6421 and 6427.

(c) *Penalties and interest.* For the application of provisions relating to interest and penalties, see chapters 67

and 68 of subtitle F of the Internal Revenue Code.

PART 602—[AMENDED]

Par. 2. The authority for part 602 continues to read as follows:

Authority: 26 CFR Part 7805.

§ 602.101 [Amended]

Par. 3. Section 602.101(c) is amended by adding in the appropriate place in the table "§ 42.5(b) * * * 1545-1206".

Fred T. Goldberg,

Commissioner of Internal Revenue.

Approved: May 24, 1991.

Kenneth W. Gideon,

Assistant Secretary of the Treasury.

[FR Doc. 91-13067 Filed 5-30-91; 10:09 am]

BILLING CODE 4830-01-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 117

[CGD5-91-25]

Drawbridge Operation Regulations; Potomac River, District of Columbia

AGENCY: Coast Guard, DOT.

ACTION: Temporary final rule with request for comments.

SUMMARY: The Coast Guard has been petitioned by the Federal Highway Administration, the Maryland and Virginia Departments of Transportation, and the District of Columbia Department of Public Works to permanently amend the regulations governing operation of the Woodrow Wilson Memorial Bridge across the Potomac River, mile 103.8, at Alexandria, Virginia. As part of the rulemaking process, the Coast Guard is considering several alternative opening schedules as well as the schedule proposed by the petitioners. This temporary rule is being issued to evaluate the impacts of one of the alternatives under consideration on both marine and highway traffic during the period.

DATES: This temporary rule is effective from June 1, 1991, through July 30, 1991, unless sooner terminated. Comments must be received on or before July 15, 1991.

ADDRESSES: Comments should be mailed to Commander (ob), Fifth Coast Guard District, 431 Crawford Street, Portsmouth, Virginia 23704-5004. The comments received will be available for inspection and copying at room 507 at the above address between 8 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Ann B. Deaton, Bridge Administrator, Fifth Coast Guard District, at 804-398-6222.

SUPPLEMENTARY INFORMATION:

Drafting Information

The drafters of this notice are Ann B. Deaton, Project Officer, and CAPT M. K. Cain, Project Attorney.

Discussion of Temporary Rule

This temporary rule is being issued to evaluate one of the alternative opening schedules being considered by the Coast Guard in response to a request from the Federal Highway Administration, the Virginia and Maryland Departments of Transportation, and the District of Columbia Department of Public Works to permanently change the regulations for the Woodrow Wilson Memorial Bridge by further restricting the hours during which the bridge may open for vessel traffic. This alternative has been selected for evaluation because it is one of several considered to strike a reasonable balance between the needs of both marine and vehicular traffic using this bridge.

This temporary rule is for evaluation purposes only. The impact of this proposal on highway and marine traffic during this period will be evaluated to determine if it will result in substantial improvements in vehicular traffic flow without unreasonably restricting marine traffic. Data will be collected during the period to document the time and duration of draw openings and length of any resulting vehicle backups. If this rule results in an unforeseen disruption of traffic it may be withdrawn sooner than 60 days.

The Woodrow Wilson Bridge has been operating under temporary rules since 2 August 1990 to facilitate repairs to the bridge. The last of these temporary rules expires on 31 May and the Coast Guard has been advised by FHWA that repairs have been completed. Normally, operation of the bridge would revert to the permanent rule in 33 CFR 117.255. However, it is apparent that these will not provide a satisfactory balance between the needs of today's vehicular traffic and the needs of vessels. Therefore the Coast Guard is imposing this temporary deviation from the permanent rules under the provisions of 33 CFR 117.43.

Before any permanent changes are made in the operating rule for the Woodrow Wilson Bridge, a notice of proposed rulemaking will be published and comments on all alternatives under consideration will be solicited.

Comments are also invited concerning any particular problems experienced with this temporary schedule. These comments will be evaluated and modifications may be made or an alternate temporary schedule of openings may be established for the purpose of further evaluation. All comments received will also be considered along with those received in connection with the permanent operating schedule rule change being considered. Persons submitting comments should include their name and address, identify the bridge, and give reasons for any recommended changes to the temporary rules. Persons desiring acknowledgment that their comments have been received should enclose a stamped, self-addressed postcard or envelope.

Since this temporary rule serves the immediate interests of highway traffic with no expected significant adverse impacts on marine traffic, I find that good cause exists for publishing this temporary rule without publication of a notice of proposed rulemaking and for making it effective in less than 30 days.

Regulatory Evaluation

This temporary rule is considered to be non-major under Executive Order 12291 and nonsignificant under the Department of Transportation regulatory policies and procedures (44 FR 11034, February 26, 1979). The economic impact has been found to be so minimal that a full regulatory evaluation is unnecessary. This conclusion is based on fact that these regulations are temporary and may be withdrawn earlier than scheduled. They are not expected to have any substantial effect on commercial navigation or on any businesses that depend on waterborne transportation for successful operations.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.), the U.S. Coast Guard must consider whether proposed rules will have a significant economic impact on a substantial number of small entities. "Small entities" include independently owned and operated small businesses that are not dominant in their field and that otherwise qualify as "small business concerns" under section 3 of the Small Business Act (15 U.S.C. 632). The Coast Guard will accept comments on the economic impact on small entities, in connection with the proposal for permanent regulations, and consider them at that time.

Federalism

This action has been analyzed in accordance with the principles and

criteria contained in Executive Order 12612, and it has been determined that the temporary rule does not raise sufficient federalism implications to warrant preparation of a Federalism Assessment.

Environment

This rulemaking has been thoroughly reviewed by the Coast Guard and it has been determined to be categorically excluded from further environmental documentation in accordance with section 2.B.2.g. of Commandant Instruction M16475.1B. A Categorical Exclusion Determination statement has been prepared and placed in the rulemaking docket.

List of Subjects in 33 CFR Part 117

Bridges.

In consideration of the foregoing, part 117 of title 33, Code of Federal Regulations, is temporarily amended as follows:

PART 117—DRAWBRIDGE OPERATION REGULATIONS

1. The authority citation for part 117 continues to read as follows:

Authority: 33 U.S.C. 499; 49 CFR 1.46; 33 CFR 1.05-1(g); 33 CFR 117.43.

2. Section 117.255 is temporarily amended by revising paragraph (a)(2) to read as follows. This is a temporary rule and will not appear in the Code of Federal Regulations.

§ 117.255 Potomac River.

(a) * * *

(2) Need not open—

(i) Except as provided in paragraph (a)(1) of this section, for the passage of any vessel unless at least two hours advance notice is given to the bridge tender at (202) 727-5522.

(ii) For the passage of any vessel from 4 a.m. to 9 a.m. and from 2 p.m. to 7 p.m., on Mondays through Fridays other than Federal holidays.

(iii) For the passage of any vessel from 6 a.m. to 9 a.m. and from 2 p.m. to 7 p.m. on Saturdays, Sundays, and Federal holidays.

(iv) For the passage of recreational vessels from 4 a.m. to 12 midnight with the exception of one opening at 12 noon, if requested, and one opening at 9 p.m., if requested, on Mondays through Fridays other than Federal holidays.

(v) For the passage of recreational vessels from 6 a.m. to 12 midnight with the exception of one opening at 10 a.m., if requested, and one opening at 1 p.m., if requested, and one opening at 9 p.m., if requested, on Saturdays, Sundays, and Federal holidays.

(vi) For the passage of recreational vessels from midnight to 4 a.m. on Mondays through Fridays other than Federal holidays and from midnight to 6 a.m. on Saturdays, Sundays, and Federal holidays except on the hour and half-hour, and only if requested.

(vii) This temporary rule is effective from June 1, 1991 through July 30, 1991.

Dated: May 21, 1991.
H. B. Gehring,

Acting Commander, Fifth Coast Guard District.

[FR Doc. 91-13110 Filed 5-30-91; 12:17 pm]

BILLING CODE 4910-14-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 43 and 64

[CC Docket No. 90-337; FCC 91-157]

Common Carrier Services: In the Matter of Regulation of International Accounting Rates

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: On May 9, 1991, the Commission adopted a Report and Order consisting of a three-part reform of the Commission's International Settlements Policy (ISP). This document will amend the rules applicable to U.S. carriers when they file their operating agreements to provide international telecommunications services. The effect of this rule will be to remove any U.S. regulatory impediments to lower, more economically efficient, cost-based international accounting rates and calling prices.

EFFECTIVE DATE: July 15, 1991.

FOR FURTHER INFORMATION CONTACT: William J. Kirsch, Deputy Assistant Bureau Chief—International, Common Carrier Bureau, (202) 632-3214, or Michael A. Mandigo, Attorney/Advisor, International Policy Division, Common Carrier Bureau, (202) 632-3214.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order adopted May 9, 1991, and released May 23, 1991. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M St. NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, Downtown Copy Center.

(202) 452-1422, 1114 21st St. NW., Washington, DC 20036.

Public reporting burden for collections of information contained is estimated to average 2 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of the collections of information, including suggestions for reducing the burden, to the Federal Communications Commission, Office of Managing Director, Paperwork Reduction Project (3060-0454), Washington, DC 20554 and to the Office of Management and Budget, Paperwork Reduction Project (3060-0454), Washington, DC 20503.

OMB Number: (3060-0454).

Title: Regulation of International Accounting Rates (CC Docket No. 90-337-Phase I).

Action: New Collection.

Respondents: Business or other for profit.

Frequency of Response: On occasion.

Estimated Annual Burden: 100 responses; 200 hours total; 2 hours average burden per response.

Needs and Uses: The Report and Order reforms existing regulation of International Settlement arrangements to make it easier for U.S. carriers engaged in international telecommunications to negotiate lower accounting rates. The information will be used for monitoring and enforcement purposes.

Summary of Report and Order

In the Report and Order, the Commission adopted a three-part reform of its International Settlements Policy (ISP) to provide for lower international accounting rates and calling prices. In the Report and Order the Commission: (1) Adopted a notification approach to expedite the implementation of simple accounting rate reductions agreed to by U.S. carriers and their foreign correspondents; (2) streamlined waiver procedures to expedite review of other changes in accounting and settlement arrangements between U.S. carriers and their foreign correspondents; and (3) recommended that U.S. delegations seek revision of language in existing and proposed recommendations of the CCITT, a consultative committee of the International Telecommunication Union (ITU). The Commission stated that these revisions should clarify that international accounting rates should be cost-based, and that administrations should seek to eliminate any non-cost-based discriminatory difference

between accounting rates applied by an administration within its region and those applied outside its region. Finally, the Commission directed U.S. carriers to negotiate with their foreign correspondents accounting rates that are consistent with relevant cost trends.

Ordering Clauses

Accordingly, *it is ordered*, That pursuant to authority contained in sections 1, 4, 201-205, 211, 215, 218-220, and 303 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 154, 201-205, 211, 215, 218-220, and 303, parts 43 and 64 of the Commission's rules, 47 CFR parts 43 and 64 are amended as set forth below.

It is further ordered, That the policies, rules and requirements set forth herein are adopted.

It is further ordered, That the Chief, Common Carrier Bureau is delegated authority to act upon matters pertaining to the policies, rules and requirements set forth herein.

It is further ordered, That NTIA's request that the Commission accept its October 15, 1990 comments under this docket is granted.

It is further ordered, That NARUC's request that the Commission accept its January 8, 1991 comments under this docket is granted.

It is further ordered, That this Report and Order will be effective July 15, 1991.

For further information on this item contact Michael Mandigo Attorney/Advisor, International Policy Division, Common Carrier Bureau, (202) 632-3214.

List of Subjects

47 CFR Part 43

Reports of communication common carriers and certain affiliates, Reporting and recordkeeping requirements, Telegraph, Telephone.

47 CFR Part 64

Miscellaneous rules relating to common carriers, Reporting and recordkeeping requirements, Telegraph, Telephone.

Federal Communications Commission,
William F. Caton,
Acting Secretary.

Rule Changes

A. Title 47 of the Code of Federal Regulations, parts 43 and 64, are amended as follows:

PART 43—[AMENDED]

1. The authority Citation for part 43 continues to read as follows:

Authority: Sec. 4, 48 Stat. 1066, as amended; 47 U.S.C. 154, unless otherwise

noted. Interpret or apply secs. 211, 219, 48 Stat. 1073, 1077, as amended; 47 U.S.C. 211, 219, 220.

2. Section 43.51 is amended by revising paragraph (a) and adding paragraph (d) to read as follows:

§ 43.51 Contracts and concessions.

(a) Any communications common carrier engaged in domestic or foreign communications, or both, which has not been classified as non-dominant pursuant to § 61.3 of the Commission's rules, 47 CFR 61.3, is not treated under the regulatory forbearance policies established by the Commission, and which enters into a contract with another carrier, including an operating agreement with a communications entity in a foreign point for the provision of a common carrier service between the United States and that point, must file with the Commission, within thirty (30) days of execution, a copy of each contract, agreement, concession, license, authorization, operating agreement or other arrangement to which it is a party and amendments thereto with respect to the following:

- (1) The exchange of services;
- (2) Except as provided in paragraph (c) of this section, the interchange or routing of traffic and matters concerning rates, accounting rates, division of tolls, or the basis of settlement of traffic balances; and
- (3) The rights granted to the carrier by any foreign government for the landing, connection, installation, or operation of cables, land lines, radio stations, offices, or for otherwise engaging in communication operation.

(d) International Settlements Policy.

(1) If a carrier files an operating agreement (whether in the form of a contract, concession, license, etc.) referred to in § 43.51(a) to begin providing switched voice, telex, telegraph, or packet-switched service between the United States and a foreign point and the terms and conditions of such agreement relating to the exchange of services, interchange or routing of traffic and matters concerning rates, accounting rates, division of tolls, or the basis of settlement of traffic balances, are not identical to the equivalent terms and conditions in the operating agreement of another carrier providing the same or similar service between the United States and the same foreign point, the carrier must also file with the Common Carrier Bureau a notification letter or waiver request, as appropriate, under § 64.1001 of this chapter.

(2) If a carrier files an amendment to the operating agreement referred to in

§ 43.51(a) under which it already provides switched voice, telex, telegraph, or packet-switched service between the United States and a foreign point, and other carriers provide the same or similar service to the same foreign point, and the amendment relates to the exchange of services, interchange or routing of traffic and matters concerning rates, accounting rates, division of tolls, or the basis of settlement of traffic balances, the carrier must also file with the Common Carrier Bureau a notification letter or waiver request, as appropriate, under § 64.1001 of this chapter.

1. The authority citation for part 64 is revised to read as follows:

Authority: Secs. 4, 48 Stat. 1066, as amended; 47 U.S.C. 154, unless otherwise noted. Interpret or apply secs. 201-205, 211, 218-220, 303, 48 Stat. 1070, 1072-73, 1077-78, as amended; 47 U.S.C. 201-205, 211, 218-220, 303, unless otherwise noted.

2. Subpart J, consisting of § 64.1001, of part 64 is added to read as follows:

Subpart J—International Settlements Policy and Waivers

§ 64.1001 International settlements policy and waivers.

(a) The procedures set forth in this rule are subject to Commission policies on international operating agreements in CC Dkt. No. 90-337.

(b) If the accounting rate referred to in § 43.51(d)(1) of this chapter is lower than the accounting rate in effect in the operating agreement of another carrier providing service to or from the same foreign point, and there is no modification in the other terms and conditions referred to in § 43.51(d)(1) of this chapter, the carrier must file a notification letter under paragraph (e) of this section.

(c) If the amendment referred to in § 43.51(d)(2) of this chapter is a simple reduction in the accounting rate, and there is no modification in the other terms and conditions referred to in § 43.51(d)(2) of this chapter, the carrier must file a notification letter under paragraph (e) of this section.

(d) If the operating agreement or amendment referred to in §§ 43.51 (d)(1) and (d)(2) of this chapter is not subject to notification under paragraphs (b) and (c) of this section, the carrier must file a waiver request under paragraph (f) of this section.

(e) A notification letter must contain the following information:

- (1) The applicable international service;
- (2) The name of the foreign telecommunications administration;

(3) The present accounting rate (including any surcharges);

(4) The new accounting rate (including any surcharges);

(5) The effective date (see paragraph (h) of this section);

(6) A statement that the accounting rate will be divided 50-50; and

(7) A statement that there has been no other modification in the operating agreement with the foreign correspondent regarding the exchange of services, interchange or routing of traffic and matters concerning rates, accounting rates, division of tolls, or the basis of settlement of traffic balances.

(f) A waiver request must contain the following information:

(1) The applicable international service;

(2) The name of the foreign telecommunications administration;

(3) The present accounting rate (including any surcharges);

(4) The new accounting rate (including any surcharges);

(5) The effective date;

(6) The division of the accounting rate;

(7) An explanation of the proposed modification(s) in the operating agreement with the foreign correspondent.

(g) Notification letters and waiver requests must contain notarized statements that the filing carrier:

(1) Has not bargained for, nor has knowledge of, exclusive availability of the new accounting rate; and

(2) Has not bargained for, nor has any indication that it will receive, more than its proportionate share of return traffic.

(h) The operating agreement or amendment subject to a notification letter is effective on the date the carrier files the notification letter; *provided that* the notification letter specifies an effective date for the modification that is later than the filing date; *provided further that*, if the purpose of the amendment is to match an accounting rate reduction specified in a notification letter previously filed by another carrier for the same point, the filing carrier may specify in the amendment and notification letter a retroactive effective date identical to that on which the previously-filed reduction became effective.

(i) If a carrier files a notification letter for an operating agreement or amendment that should have been filed as a waiver request, the Bureau will return the notification letter to the filing carrier and the Bureau will notify the carrier that, before it can implement the proposed modification, it must file a waiver request under paragraph (f) of this section.

(j) An operating agreement or amendment filed under a waiver request cannot become effective until the waiver has been granted under paragraph (l) of this section.

(k) On the same day the notification letter or waiver request is filed, carriers must serve a copy of the notification letter or waiver request on all carriers providing the same or similar service to the foreign administration identified in the filing.

(l) All waiver requests will be subject to a twenty-one (21) day pleading period for objections or comments, commencing the date after the request is filed. If the waiver request is not complete when filed, the carrier will be notified that additional information is to be submitted, and a new 21 day pleading period will begin when the additional information is filed. The waiver will be deemed granted as of the twenty-second (22nd) day without any formal staff action being taken; *provided*

(1) No objections have been filed, and

(2) The Common Carrier Bureau has not notified the carrier that grant of the waiver may not serve the public interest and that implementation of the proposed modification must await formal staff action on the waiver request. If objections or comments are filed, the carrier requesting the waiver may file a response pursuant to § 1.45 of the Commission's rules, 47 CFR 1.45. Waiver requests that are formally opposed must await formal action by the Common Carrier Bureau before the proposed modification can be implemented.

[FR Doc. 91-13050 Filed 6-3-91; 8:45 am]

BILLING CODE 6712-01-M

[PR Docket No. 88-139; DA 91-620]

47 CFR Part 97

Editorial Amendment of Part 97 of the Commission's Rules Governing the Amateur Radio Service

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This action makes non-substantive, editorial changes to the amateur service rule that concerns mailing address and station location. It is necessary so that the amateur service rules will reflect current United States Postal Service terminology and regulations. The effect of the rule change is to apprise amateur service licensees that certain postal facilities are unsuitable for designation as an amateur station location.

EFFECTIVE DATE: July 22, 1991.

FOR FURTHER INFORMATION CONTACT:
Maurice J. DePont, Private Radio
Bureau, Federal Communications
Commission, Washington, DC 20554
(202) 632-4964.

SUPPLEMENTARY INFORMATION:

Adopted: May 17, 1991.

Released: May 29, 1991.

In the Matter of Reorganization and
Deregulation of part 97 of the Rules
Governing the Amateur Radio Service;
Memorandum Opinion and Order.

By the Chief, Private Radio Bureau.

I. Introduction

1. On May 31, 1989, the Commission adopted a Report and Order in this proceeding¹ that, *inter alia*, reorganized the amateur service rules and codified existing policies. The purpose of the reorganization was to create a regulatory environment that would encourage modern techniques, technology, and uses of amateur radio. Three petitions for reconsideration were filed. On July 9, 1990, the Commission adopted a Memorandum Opinion and Order disposing of those petitions.² On August 8, 1990, one of the original petitioners, David B. Popkin, filed a second petition for reconsideration. This Memorandum Opinion and Order disposes of his second petition for reconsideration by making non-substantive, editorial changes to the mailing address and station location rule. His requests concerning a 9-digit zip code and self-assigned indicators that are included with the call sign during station identification procedures are repetitious and are, therefore, denied.

II. Background

2. The petitioner states that he is filing this second petition for reconsideration because he feels consideration was not given to all the points made in his original petition for reconsideration as required by § 1.425 of the Commission's Rules, 47 CFR 1.425. Specifically, he argues that certain preferences of, and terms used by, the United States Postal Service were not adopted in accordance with his request. Additionally, he requests that § 97.119(c) of the Commission's Rules, 47 CFR 97.119(c), be amended to state that a self-assigned indicator may be used after the station call sign, if there is no intention to conflict with any other indicator specified by the Commission's Rules or with any prefix assigned to another country.

III. Discussion

3. Section 1.425 of the Commission's Rules, 47 CFR 1.425, which the petitioner relies on, is not applicable here. That section requires consideration of all relevant comments and the record before final action is taken in a rule making proceeding. After such consideration, the final decision must incorporate the Commission's findings and the reasons for the action taken. It is well settled that the courts do not expect an administrative agency to respond to every comment or to discuss every fact or opinion in the comments submitted in informal rule making proceedings. See *Thompson v. Clark*, 741 F.2d 401, 408 (1984). See also *Automotive Parts & Accessories Association v. Boyd*, 407 F.2d 330, 338 (1968).

4. Section 1.429 of the Commission's Rules, 47 CFR 1.429, governs the filing of petitions for reconsideration in rule making proceedings. That section requires that petitions for reconsideration must show changed facts or circumstances, or facts that were unknown to the petitioner until after the last opportunity to present them to us. Absent those criteria, a determination must be made that the public interest will be served by considering the facts relied on in the petition for reconsideration.

5. The public interest will be served by making non-substantive, editorial revisions to § 97.21 of the Commission's Rules, 47 CFR 97.21. That rule concerns an amateur service licensee's mailing address and the location of the amateur station. That rule will be amended to specify that a post office box is not suitable as an amateur station location whether the box is provided by the United States Postal Service or by any other party. In addition, instead of stating that a rural delivery service number is not suitable as a station location, the rule will be amended to reflect current postal terminology.

6. The petitioner again requests amendment of the rules to show a 9-digit zip code number in those sections of the amateur service rules that refer to the procedures for filing license applications. There is no United States Postal Service requirement that mandates the use of a 9-digit zip code. The rules, therefore, will continue to show a 5-digit zip code in addresses to which applicants send their license applications.

7. The petitioner's request to include a provision in § 97.119(c) that self-assigned indicators may be used after the station call sign, if there is no intent on the part of the user to conflict with

any other indicator specified by the rules or with any prefix assigned to another country, will be denied. The rule, as written, requires that a licensee must take affirmative action to assure that no conflict will result from the use of the self-assigned indicator. To word the rule to state that the user must not intend to cause a conflict with any other Commission-assigned indicator or prefix of a foreign country would weaken the rule and make it meaningless.

IV. Procedural Matter

8. Because the amendment ordered herein is non-substantive and editorial in nature, and, therefore, not controversial, it constitutes a minor amendment to the amateur service rules in which the public is not likely to be interested. For good cause shown, it is unnecessary to comply with the notice and comment procedure of the Administrative Procedure Act. See 5 U.S.C. 553(b)(3).

V. Conclusion

9. In view of the foregoing, and pursuant to the authority contained in 47 U.S.C. 154(i), and §§ 0.331(a)(1) and 1.429(i) of the Commission's Rules, 47 CFR 0.331(a)(1) and 1.429(i), it is ordered that the petition for reconsideration filed by David B. Popkin is granted as indicated herein, and is Denied in all other respects.

10. It is further ordered that, pursuant to the authority contained in 47 U.S.C. 303(r), part 97 is amended, effective July 22, 1991, as set forth in the appendix.

11. It is further ordered that this proceeding is terminated.

12. For further information concerning this Memorandum Opinion and Order contact Maurice J. DePont, Private Radio Bureau (202) 632-4964.

List of Subjects in 47 CFR Part 97

Mailing address, Radio.

Federal Communications Commission.

Ralph A. Haller,

Chief, Private Radio Bureau.

Title 47 of the Code of Federal Regulations, part 97, is amended as follows:

PART 97—[AMENDED]

1. The authority citation for part 97 continues to read as follows:

Authority: 48 Stat. 1086, 1082, as amended; 47 U.S.C. 154, 303. Interpret or apply 48 Stat. 1084-1088, 1081-1105, as amended; 47 U.S.C. 151-155, 301-309, unless otherwise noted.

2. The last sentence of § 97.21 is revised to read as follows:

¹ 4 FCC Rcd 4719 (1989).

² 5 FCC Rcd 4614 (1990).

§ 97.21 Mailing address and station location.

* * * (A post office box whether provided by the United States Postal Service or by any other party, a rural or highway contract route designation and box number, and general delivery are unsuitable as a station location.)

[FR Doc. 91-13052 Filed 6-3-91; 8:45 am]

BILLING CODE 6712-01-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 658

[Docket No. 910506-1106]

RIN 0648-AD24

Shrimp Fishery of the Gulf of Mexico

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

ACTION: Final rule; correction.

SUMMARY: This corrects a date in 50 CFR 658.25(a) of the final rule to implement Amendment 5 to the Fishery Management Plan for the Shrimp Fishery of the Gulf of Mexico.

EFFECTIVE DATE: May 17, 1991.

FOR FURTHER INFORMATION CONTACT: Michael E. Justen, 813-893-3161.

In FR Doc. 91-11774, (56 FR 22827, May 17, 1991) make the following correction:

§ 658.25 [Corrected]

On page 22829, in the second column, under § 658.25 Texas closure, paragraph (a) Area and season restrictions, on line three, the date "July 6" should read "July 15."

Authority: 16 U.S.C. 1801 *et seq.*

Dated: May 29, 1991.

David S. Crestmin,
Acting Assistant Administrator for Fisheries,
National Marine Fisheries Service.

[FR Doc. 91-13077 Filed 6-3-91; 8:45 am]

BILLING CODE 3510-22-M

Proposed Rules

Federal Register

Vol. 56, No. 107

Tuesday, June 4, 1991

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 1005

[Docket Nos. AO-388-A4, DA-91-005]

Milk in the Carolina Marketing Area; Decision on Proposed Amendments to Marketing Agreement and Order

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This decision would change the Carolina order by allowing a handler that operates more than one distributing plant to combine the receipts and dispositions of such plants for the purpose of qualifying them as pool plants. The proposed amendment was submitted by a cooperative association and a dairy processor and supported by another cooperative association that also supplies the dairy processor. The change is based on the record of a public hearing held in Charlotte, North Carolina, on November 8, 1990. The change is necessary to provide efficient procedures for handling milk, to reflect current marketing conditions and to maintain orderly marketing in the Carolina marketing area.

FOR FURTHER INFORMATION CONTACT: Clayton H. Plumb, Marketing Specialist, USDA/AMS/Dairy Division, Order Formulation Branch, room 2968, South Building, P.O. Box 96456, Washington, DC 20090-6456, (202) 447-6274.

SUPPLEMENTARY INFORMATION: This administrative action is governed by the provisions of sections 556 and 557 of title 5 of the United States Code and, therefore, is excluded from the requirements of Executive Order 12291.

The Regulatory Flexibility Act (5 U.S.C. 601-612) requires the Agency to examine the impact of a proposed rule on small entities. Pursuant to 5 U.S.C. 605(b), the Administrator of the Agricultural Marketing Service has certified that this action will not have a significant economic impact on a

substantial number of small entities. The amended order will promote more orderly marketing of milk by producers and regulated handlers.

Prior documents in this proceeding: Notice of Hearing: Issued October 24, 1990; published October 30, 1990 (55 FR 45612).

Recommended Decision: Issued March 1, 1991; published March 6, 1991 (56 FR 9306).

Preliminary Statement

A public hearing was held upon a proposed amendment to the marketing agreement and the order regulating the handling of milk in the Carolina marketing area. The hearing was held, pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), and the applicable rules of practice (7 CFR part 900), at Charlotte, North Carolina, on November 8, 1990. Notice of such hearing was issued on October 24, 1990, and published October 30, 1990 (55 FR 45612).

Upon the basis of the evidence introduced at the hearing and the record thereof, the Administrator, on March 1, 1991, filed with the Hearing Clerk, United States Department of Agriculture, his recommended decision containing notice of the opportunity to file written exceptions thereto. No exceptions were filed.

The material issue, findings and conclusions, rulings, and general findings of the recommended decision are hereby approved and adopted and are set forth in full herein.

The material issue on the record of the hearing relates to pool plant qualification standards for distributing plants.

Findings and Conclusions

The following findings and conclusions on the material issue are based on evidence presented at the hearing and the record thereof:

The provisions affecting the pool qualification of distributing plants under the Carolina Federal milk order should be amended to allow a handler who operates two or more distributing plants to consider them as a unit for the purpose of meeting the order's total Class I disposition requirement. Each plant should continue to be required to distribute at least 15 percent of the total amount of milk received at or diverted

from the plant as route disposition in the marketing area.

Currently, 60 percent of the amount of milk received at or diverted from each distributing plant during the months of August through November, January and February must be disposed of as Class I milk in order for the plant to be qualified as a pool plant. The applicable percentage requirement for the months of March through July and December is 40 percent.

Southern Milk Sales, Inc. (SMS), a cooperative association, and Hunter Jersey Farms, Inc. (Hunter), a proprietary handler, proposed that the order provide for unit pooling of distributing plants. Under their proposal, the receipts and disposition of the distributing plants requested by a multi-plant handler to be considered as a unit would be combined, and the plants would be treated as a single plant for the purpose of determining whether the unit meets the total route disposition requirement for a pool distributing plant.

Several witnesses for the proponents testified in support of the proposal and a witness for Piedmont Milk Sales (Piedmont) supported the proposal. There was no testimony at the hearing or statements in briefs in opposition to the proposal.

The first witness for SMS said that SMS and Hunter, prior to September 1, 1990 (effective date for the Carolina order), estimated the Hunter plant's Class I utilization at High Point, North Carolina, for the months of September through November 1990 to be about 50 percent. The witness said that the failure to meet the 60 percent requirement would result in the plant at High Point not being a pool plant. Nonpool status, she said, would cost the SMS producers about 90 cents per hundredweight. She said that the estimated 90 cents was based on a comparison of the Class I utilization at the High Point plant of 50 percent and the marketwide Class I utilization of 82 to 85 percent. SMS, she said, with a 90-cent reduction in pay prices would not be competitive with other producers in the market.

The spokeswoman for SMS said that Hunter was able to meet the 60 percent standard for September 1990 by shifting operations between the Hunter plant at High Point and the Hunter plant at Charlotte. SMS, she said, delivered less milk to the High Point plant and more

milk to the Charlotte plant and at the same time more fluid milk was processed and packaged at the High Point plant and less was processed and packaged at the Charlotte plant. The witness said that SMS incurred an additional cost of about 15 cents per hundredweight on about 500,000 pounds of milk that was delivered to the Charlotte plant rather than the High Point plant.

A witness for Hunter testified that Hunter had to incur additional transportation costs in moving some packaged fluid milk sales accounts normally associated with the Charlotte plant to the selling points associated with the High Point plant. On a combined accounting basis, he said, the Class I utilization of the two plants would be between 65 and 70 percent. He said that Hunter, because of the location of its customers, could not concentrate all of its fluid milk processing at the Charlotte plant and all of its manufacturing at the High Point plant.

The Hunter witness said that Hunter acquired the High Point plant from Borden in April 1990 and that Borden had decreased its fluid milk processing at the High Point plant because of its decision to transfer some of that volume to one of its other plants. He said that in order to keep the High Point plant operating, Hunter decreased its processing of fluid milk products (about 75,000 gallons of milk per week) at its Charlotte plant and increased its fluid milk processing at the High Point plant. He said that even with these uneconomic changes in their operations, he did not think that the High Point plant could achieve a 60 percent or better Class I utilization in the future.

The third witness testifying on behalf of SMS and Hunter said that the "unit pooling" proposal would not change any of the other pooling requirements such as the "in area" route disposition requirement. He said that the record shows that in recent months the Class I utilization at the High Point plant has dropped considerably. At the time the hearing was held to consider promulgation of the Carolina order (April 1989) these developments were not foreseen; otherwise, "unit pooling" would have been proposed.

The spokesman for the proponents stated that at the proponents' request, the Department issued a temporary revision that reduced the 60 percent distribution requirement to 50 percent for the months of October and November 1990 and January and February 1991. He said that the 60

percent requirement would again be effective for the month of August 1991.

The witness for SMS and Hunter said that the steps taken by Hunter to pool the two plants lessen the ability of Hunter to achieve operational efficiencies by specializing in the processing of fluid milk products in one plant and by-products in another plant. He said that the steps taken by Hunter can also result in the disruption of the normal farm-to-market movement of milk by requiring a portion of the supply to be delivered to an alternative plant at a greater distance.

The spokesman for SMS and Hunter said that regulatory provisions should encourage orderly and efficient handling, processing and distribution of milk and milk products and that "unit pooling" is contained in other Federal orders such as the Tennessee Valley order. He said that the proposal will not adversely affect any other proprietary handler or cooperative association associated with the Carolina marketing area.

The proposed "unit pooling" proposal should be adopted. The record evidence demonstrate that inefficient steps were taken by the proponents to pool the High Point plant. The temporary revision issued by the Department for the months of October and November 1990 and January and February 1991 (60 percent to 50 percent) should enable the High Point plant to be pooled without the proponents having to resort to the inefficient steps that were taken in September. The High Point plant would only have to meet a 40 percent fluid milk disposition requirement for the month of December and the months of March 1991 through July 1991. However, the record indicates that the problem encountered by the High Point plant is not temporary and that amendatory action is needed.

The "unit pooling" proposal will remove the need for SMS and Hunter to incur additional transportation costs with respect to the shifting of bulk milk between the two plants and also the additional transportation in moving packaged milk from the High Point plant greater distances to the sales outlets associated with the Charlotte plant.

Order provisions should not impede the ability of a multi-plant handler to achieve operational efficiencies by specializing in the processing of some fluid milk products in one plant and other products in another plant. With unit pooling, as herein adopted, it will be possible for a multi-plant handler to confine certain specialized operations to one plant in order to achieve an

economy of scale comparable to that which would be realized by maintaining its total operation in one plant.

Adoption of the proposed amendment will not allow the pooling of any plant that does not distribute a significant amount of fluid milk, or any distributing plant that is not primarily associated with the Carolina marketing area. To qualify for pooling as a unit, each distributing plant in the unit would still have to dispose of at least 15 percent of its receipts as route distribution in the marketing area. This requirement will ensure that each plant pooled in the unit has a significant commitment to supplying fluid milk products to the marketing area.

The witnesses' concern about the reduction in pay prices of about 90 cents to SMS producers delivering milk to the High Point plant should the plant fail to qualify for pooling is valid. A reduction to pay prices of this amount at this location could result in disruptive marketing conditions.

In order to qualify for unit pooling, a handler would be required to notify the market administrator in writing prior to the first month in which plants are to be considered as a unit for pooling purposes. Unit pooling would be continued in each following month without further notification. However, if other plants of the handler are added to or dropped from the unit, the handler would need to notify the market administrator prior to the month in which such change is to be effective.

Rulings on Proposed Findings and Conclusions

Briefs and proposed findings and conclusions were filed on behalf of certain interested parties. These briefs, proposed findings and conclusions and the evidence in the record were considered in making the findings and conclusions set forth above. To the extent that the suggested findings and conclusions filed by interested parties are inconsistent with the findings and conclusions set forth herein, the requests to make such findings or reach such conclusions are denied for the reasons previously stated in this decision.

General Findings

The findings and determinations hereinafter set forth supplement those that were made when the Carolina order was first issued and when it was amended. The previous findings and determinations are hereby ratified and confirmed, except where they may

conflict with those set forth herein.

(a) The tentative marketing agreement and the order, as hereby proposed to be amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act:

(b) The parity prices of milk as determined pursuant to section 2 of the Act are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for milk in the marketing area, and the minimum prices specified in the tentative marketing agreement and the order, as hereby proposed to be amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest; and

(c) The tentative marketing agreement and the order, as hereby proposed to be amended, will regulate the handling of milk in the same manner as, and will be applicable only to persons in the respective classes of industrial and commercial activity specified in, a marketing agreement upon which a hearing has been held.

Marketing Agreement and Order

Annexed hereto and made a part hereof are two documents, a Marketing Agreement regulating the handling of milk, and an Order amending the order regulating the handling of milk in the Carolina marketing area, which have been decided upon as the detailed and appropriate means of effectuating the foregoing conclusions.

It is hereby ordered that this entire decision and the two documents annexed hereto be published in the Federal Register.

Determination of Producer Approval and Representative Period

January 1991 is hereby determined to be the representative period for the purpose of ascertaining whether the issuance of the order, as amended and as hereby proposed to be amended, regulating the handling of milk in the Carolina marketing area is approved or favored by producers, as defined under the terms of the order as amended and as hereby proposed to be amended, who during such representative period were engaged in the production of milk for sale within the aforesaid marketing area.

List of Subjects in 7 CFR Part 1005

Milk marketing orders.

Signed at Washington, DC, on: May 22, 1991.

Jo Ann R. Smith,
Assistant Secretary, Marketing and
Inspection Services.

Order Amending the Order Regulating the Handling of Milk in the Carolina Marketing Area

(This order shall not become effective unless and until the requirements of § 900.14 of the rules of practice and procedure governing proceedings to formulate marketing agreements and marketing orders have been met.)

Findings and Determinations

The findings and determinations hereinafter set forth supplement those that were made when the order was first issued and when it was amended. The previous findings and determinations are hereby ratified and confirmed, except where they may conflict with those set forth herein.

(a) Findings. A public hearing was held upon certain proposed amendments to the tentative marketing agreement and to the order regulating the handling of milk in the Carolina marketing area. The hearing was held pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), and the applicable rules of practice and procedure (7 CFR part 900).

Upon the basis of the evidence introduced at such hearing and the record thereof, it is found that:

(1) The said order as hereby amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act;

(2) The parity prices of milk, as determined pursuant to section 2 of the Act, are not reasonable in view of the price of feeds, available supplies feeds, and other economic conditions which affect market supply and demand for milk in the said marketing area; and the minimum prices specified in the order as hereby amended are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest; and

(3) The said order as hereby amended regulates the handling of milk in the same manner as, and is applicable only to persons in the respective classes of industrial or commercial activity specified in, a marketing agreement upon which a hearing has been held.

Order Relative to Handling

It is therefore ordered that on and after the effective date hereof, the handling of milk in the Carolina marketing area shall be in conformity to

and in compliance with the terms and conditions of the order, as amended, and as hereby amended, as follows:

The provisions of the proposed marketing agreement and order amending the order contained in the recommended decision issued by the Administrator, on March 1, 1991, and published in the Federal Register on March 6, 1991 (54 FR 9306), shall be and are the terms and provisions of this order, amending the order, and are set forth in full herein.

PART 1005—MILK IN THE CAROLINA MARKETING AREA

1. The authority citation for 7 CFR part 1005 continues to read as follows:

Authority: Secs. 1-19, 48 Stat. 31, as amended; 7 U.S.C. 601-674.

2. In § 1005.7, paragraph (a)(2) is revised to read as follows:

§ 1005.7 Pool plant.

(a) * * *

(2) The total quantity of fluid milk products, except filled milk, disposed of in Class I is not less than 60 percent in each of the months of August through November and January and February, and 40 percent in each of the other months, of the total quantity of fluid milk products, except filled milk, physically received at such plant or diverted therefrom pursuant to § 1005.13, subject to the following conditions:

(i) Two or more plants operated by the same handler may be considered as a unit for the purpose of meeting the total Class I requirement percentages specified in paragraph (a)(2) of this section if each plant in the unit meets the in-area route disposition requirement specified in paragraph (a)(1) of this section, and if such handler requests that the plants be so considered as a unit. If such a handler wishes to add or remove plants from consideration as a unit, such a request must be made before the first day of the month for which it is to be effective.

(ii) The applicable percentages in paragraph (a)(2) of this section may be increased or decreased up to 10 percent points by the Director of the Dairy Division if the Director finds such revision is necessary to assure orderly marketing and efficient handling of milk in the marketing area. Before making such a finding, the Director shall investigate the need for revision either at the Director's own initiative or at the request of interested persons. If the investigation shows that a revision might be appropriate, the Director shall

issue a notice stating that the revision is being considered and invite data, views, and arguments.

Marketing Agreement Regulating the Handling of Milk in the Carolina Marketing Area

The parties hereto, in order to effectuate the declared policy of the Act, and in accordance with the rules of practice and procedure effective thereunder (7 CFR part 900), desire to enter into this marketing agreement and do hereby agree that the provisions referred to in paragraph I hereof as augmented by the provisions specified in paragraph II hereof, shall be and are the provisions of this marketing agreement as if set out in full herein.

I. The findings and determinations, order relative to handling, and the provisions of §§ 1005.1 to 1005.94, all inclusive, of the order regulating the handling of milk in the Carolina marketing area (7 CFR part 1005) which is annexed hereto; and

II. The following provisions:

§ 1005.95 Record of milk handled and authorization to correct typographical errors.

(a) Record of milk handled. The undersigned certifies that he handled during the month of January 1991, _____ hundredweight of milk covered by this marketing agreement.

(b) Authorization to correct typographical errors. The undersigned hereby authorizes the Director, or Acting Director, Dairy Division, Agricultural Marketing Service, to correct any typographical errors which may have been made in this marketing agreement.

§ 1005.96 Effective date.

This marketing agreement shall become effective upon the execution of a counterpart hereof by the Secretary in accordance with § 900.14(a) of the aforesaid rules of practice and procedure.

In Witness Whereof, The contracting handlers, acting under the provisions of the Act, for the purposes and subject to the limitations herein contained and not otherwise, have hereunto set their respective hands and seals.

(Seal)

Attest _____

Date _____

(Signature) _____

BY _____

(Name)

(Title)

(Address) _____

[FR Doc. 91-13066 Filed 6-3-91; 8:45 am]

BILLING CODE 3410-02-M

SMALL BUSINESS ADMINISTRATION

13 CFR Part 122

Business Loans, Rural Loan Program

AGENCY: Small Business Administration (SBA).

ACTION: Proposed rule.

SUMMARY: Section 307 of Public Law 101-574, the Small Business Administration and Amendments Act of 1990, enacted on November 15, 1990 (104 Stat. 2814) (1990 legislation), amended the Small Business Act by adding a new section 7(a)(19)(C) which authorizes a lender to retain one half of the guaranty fee when it makes a guaranteed loan of less than \$75,000 to a small business located in a rural area. If the guaranteed loan to a business in a rural area is \$75,000 or more, the participating lender would be allowed to keep one half of the guaranty fee attributable to \$75,000 on a pro rata basis. The proposed regulation would implement these provisions.

DATES: Comments must be submitted on or before August 5, 1991.

ADDRESSES: Comments may be mailed to Charles R. Hertzberg, Assistant Administrator for Financial Assistance, Small Business Administration, 409 3d Street, SW., Washington, DC 20413.

FOR FURTHER INFORMATION CONTACT: Charles R. Hertzberg, 202/205-6490.

SUPPLEMENTARY INFORMATION:

Pursuant to section 7(a)(19)(C) of the Small Business Act (15 U.S.C. 636(a)(19)(C)) (Act), if a guaranteed loan of under \$75,000 is made to a small business in a rural area under section 7(a) of the Act, the lender is allowed to keep one half of the guaranty fee. Also, if a lender makes a guaranteed loan of \$75,000 or more to a business in a rural area, such lender is authorized to retain one half of the guaranty fee attributable to \$75,000. At the present time, the guaranty fee (payable to SBA) is two percent of the guaranteed portion of a loan made pursuant to section 7(a) of the Act, except for loans with a maturity of one year or less or for loans made by development companies under section 7(a)(13) of the Act. Accordingly, a lender would be permitted to retain up to \$750 of the guaranty fee (one-half of the two percent attributable to \$75,000). Under the provisions of the 1990 legislation this so-called rural loan program terminates with respect to guaranteed loans approved by SBA after September 30, 1995.

The rural loan program is separate and distinct from SBA's small loan program (*i.e.*, loans of \$50,000 or less) authorized by section 7(a)(19)(B) of the

Act which contains its own provisions with respect to the lender retaining one-half of the guaranty fee. Consequently, a lender which makes a rural loan of \$50,000 or less would retain only one-half of the guaranty fee under section 7(a)(19)(C); the retention provisions of section 7(a)(19)(B) would not apply.

The proposed regulation would set forth the general rule regarding retention of guaranty fees for the rural loan program. Since the 1990 legislation does not define "rural area", SBA proposes that the term be defined in a manner similar to that used by SBA in another of its programs relating to development companies (see § 108.2 of this title). Under the definition as proposed herein, a "rural area" would mean: (1) Any political subdivision or unincorporated area in a nonmetropolitan county (as defined by the Economic Development Division, Economic Research Service, U.S. Department of Agriculture) or the equivalent thereof, or (2) any political subdivision or unincorporated area in a metropolitan county or the equivalent thereof, with a resident population of less than 20,000 if SBA has determined such political subdivision or area to be rural. The SBA would supply its field offices with the necessary information from the U.S. Department of Agriculture.

The proposed regulation would provide that the proceeds of a guaranteed loan made under this rural loan program could be used for any of the purposes set forth in section 7(a) of the Act.

Compliance With Executive Orders 12291 and 12612, the Regulatory Flexibility Act, 5 U.S.C. 601 et seq., and the Paperwork Reduction Act, 44 U.S.C. ch. 35

For purposes of the Regulatory Flexibility Act, 5 U.S.C. 601 et seq., SBA certifies that this proposed rule, if promulgated in final form, will not have a significant impact on a substantial number of small entities.

SBA certifies that this proposed rule, if promulgated in final form, will not constitute a major rule for the purposes of Executive Order 12291, since the proposed change is not likely to result in an annual effect on the economy of \$100 million or more.

The proposed rule, if promulgated in final form, would not impose additional reporting or recordkeeping requirements which would be subject to the Paperwork Reduction Act, 44 U.S.C. chapter 35.

This proposed rule would not have federalism implications warranting the preparation of a Federalism Assessment

in accordance with Executive Order 12612.

List of Subjects in 13 CFR Part 122

Loan programs/business, Small businesses.

Pursuant to the authority contained in section 5(b)(6) of the Small Business Act (15 U.S.C. 634(b)(6)), SBA proposes to amend part 122, chapter I, title 13, Code of Federal Regulations, as follows:

PART 122—BUSINESS LOANS

1. The authority citation for part 122 would continue to read as follows:

Authority: 15 U.S.C. 634(b)(6) and 636(a).

2. Subpart B of part 122 would be amended by adding a new § 122.60 to read as follows:

§ 122.60 Rural Loan Program.

§ 122.60-1 General rule.

The Act authorizes a lender to retain one-half of the guaranty fee with respect to a guaranteed loan of less than \$75,000 to a small business concern in a rural area. With respect to a guaranteed loan of \$75,000 or more to a small business concern in a rural area, a Lender may retain one-half of the guaranty fee attributable to \$75,000. The proceeds of a guaranteed loan made pursuant to this section of the regulations may be used for any of the purposes prescribed under section 7(a) of the Act. This rule terminates for guaranteed loans approved by SBA after September 30, 1995.

§ 122.60-2 Rural area.

For the purposes of this section, *rural area* means:

(1) Any political subdivision or unincorporated area in a nonmetropolitan county (as defined by the Economic Development Division, Economic Research Service, U.S. Department of Agriculture) or the equivalent thereof, or

(2) Any political subdivision or unincorporated area in a metropolitan county or the equivalent thereof, with a resident population of less than 20,000 if SBA has determined such political subdivision or area to be rural.

§ 122.60-3 Calculation of guaranty fee.

The guaranty fee (as described in § 120.104-1(a) of this chapter) is calculable with respect to the guaranteed portion of any loan made under section 7(a) of the Act other than a loan repayable in one year or less or a loan under section 7(a)(13).

(Catalogue of Federal Domestic Assistance Programs, No. 59.012, Small Business Loans)

Dated: April 26, 1991.

Patricia Saiki,
Administrator.

[FR Doc. 91-13094 Filed 6-3-91; 8:45 am]

BILLING CODE 8025-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 91-CE-38-AD]

Airworthiness Directives; Beech 33 and 36 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This notice proposes to adopt a new airworthiness directive (AD) that would be applicable to Beech 33 and 36 series airplanes. The proposed action would supersede AD 90-11-04, which currently requires initial and repetitive inspections of the rudder forward spar for cracks and replacement if found cracked. This proposal allows for compliance adjustment of the repetitive inspections if a certain Spacecraft Machine Products reinforcement bracket is installed. The actions specified in this AD are intended to prevent separation of the rudder from the airplane.

DATES: Comments must be received on or before August 1, 1991.

ADDRESSES: Beech Service Bulletin No. 2333, dated October 1989, this is discussed in this AD may be obtained from the Beech Aircraft Corporation, Commercial Service, Department 52, P.O. Box 85, Wichita, Kansas 67201-0085. This information also may be examined at the Rules Docket at the address below. Send comments on the proposal in triplicate to the FAA, Central Region, Office of the Assistant Chief Counsel, Attention: Rules Docket No. 91-CE-38-AD, room 1558, 601 E. 12th Street, Kansas City, Missouri 64106. Comments may be inspected at this location between 8 a.m. and 4 p.m., Monday through Friday, holidays excepted.

FOR FURTHER INFORMATION CONTACT: Mr. Larry Engler, Aerospace Engineer, Wichita Aircraft Certification Office, FAA, 1801 Airport Road, Mid-Continent Airport, Wichita, Kansas 67209; Telephone (316) 946-4409.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the

proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report that summarizes each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Central Region, Office of the Assistant Chief Counsel, Attention: Rules Docket No. 91-CE-38-AD, room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

Discussion

Airworthiness Directive (AD) 90-11-04, Amendment 39-6594 (55 FR 19721, May 11, 1990) requires an initial and 500-hour time-in-service (TIS) interval repetitive inspections of the rudder forward spar for cracks and replacement if found cracked on Beech 33 and 36 series airplanes. This AD does not take into account that the affected airplanes might have a Spacecraft Machine Products (SMP) reinforcement bracket installed in accordance with Supplemental Type Certificate (STC) SA 4899NM. This reinforcement bracket reduces the stress in the spar at that location. The FAA has determined that the compliance time for the repetitive inspections should be extended if this SMP reinforcement bracket is installed in accordance with STC SA 4899NM.

Since the condition described above is likely to exist or develop in other Beech 33 and 36 series airplanes of the same type design, the FAA is proposing an AD that would supersede AD 90-11-04 and would help prevent separation of the rudder from the airplane. It would still require initial and repetitive inspections of the rudder spar and replacement if found cracked, but would extend the compliance time for the repetitive inspections to 1,000 hours TIS

if an SMP reinforcement bracket is installed. The proposed inspections and possible replacement would be accomplished in accordance with the instructions in Beech Service Bulletin No. 2333, dated October 1989.

It is estimated that 5,900 airplanes in the U.S. registry would be affected by the proposed AD, that it will take approximately 2 hours per airplane to accomplish the proposed action, and that the average labor rate is approximately \$55 an hour. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be \$649,000.

The regulations proposed herein would have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this action (1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action has been placed in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption "ADDRESSES".

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend 14 CFR part 39 of the Federal Aviation Regulations as follows:

PART 39—[AMENDED]

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g); and 14 CFR 11.89.

§ 39.13 [Amended]

2. Section 39.13 is amended by removing AD 90-11-04, Amendment 39-6594 (55 FR 19721, May 11, 1990) and adding the following new AD:

Beech: Docket No. 91-CE-38-AD.

Applicability: The following Model airplanes and serial numbers, certificated in any category.

Models	Serial numbers
35-33, 35-A33, 35-B33, 35-C33, E33, F33, G33.	CD-1 through CE-1304.
35-C33A, E33A, F33A E33C, F33C 36, A36 A36TC, B36TC	CE-1 through CE-1425. CJ-1 through CJ-179. E-1 through E-2518. EA-1 through EA-500.

Compliance: Required as indicated after the effective date of this AD, unless already accomplished.

To prevent separation of the rudder on the affected airplanes, accomplish the following:

(a) Upon the accumulation of 1,000 hours time-in-service (TIS) or within the next 100 hours TIS, whichever occurs later, inspect the rudder forward spar for cracks in accordance with the instructions in Beech Service Bulletin No. 2333, dated October 1989.

(1) If no cracking is detected, return the airplane to service and continue the inspections at intervals not to exceed 500 hours TIS.

(2) If cracking is detected, prior to further flight, replace the rudder forward spar (part number 33-630000-115, -99, -113, or -17, whichever is applicable) in accordance with the instructions in Beech Service Bulletin No. 2333, dated October 1989. Reinspect within the next 1,000 hours TIS after installation and reinspect thereafter at intervals not to exceed 500 hours TIS.

(b) If the airplane has a Spacecraft Machine Products (SMP) reinforcement bracket installed in accordance with Supplemental Type Certificate (STC) SA 4899NM, the repetitive inspections required in paragraphs (a)(1) or (a)(2) may be extended to 1,000 hours TIS.

(c) If rudder assembly, part number 33-630000-137, -139, -141, or -167, whichever is applicable, is installed then the inspections required by this AD may be terminated.

(d) Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate the airplane to a location where the requirements of this AD can be accomplished.

(e) An alternative method of compliance or adjustment of the initial or repetitive compliance times that provides an equivalent level of safety may be approved by the Manager, Wichita Aircraft Certification Office, FAA, 1801 Airport Road, Mid-Continent Airport, Wichita, Kansas 67209. The request should be forwarded through an appropriate FAA Maintenance Inspector, who may add comments and then send it to the Manager, Wichita Aircraft Certification Office.

(f) All persons affected by this directive may obtain copies of the document referred to herein upon request to the Beach Aircraft Corporation, Commercial Service, Department 52, P.O. Box 85, Wichita, Kansas 67201-0085; or may examine this document at the FAA, Central Region, Office of the Assistant Chief Counsel, room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

Issued in Kansas City, Missouri, on May 22, 1991.

Herman C. Belderok,
Acting Manager, Small Airplane Directorate,
Aircraft Certification Service.

[FR Doc. 91-13101 Filed 6-3-91; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 39

[Docket No. 91-NM-86-AD]

Airworthiness Directives; Boeing Model 737, 757, and 747-400 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Proposed Rulemaking (NPRM).

SUMMARY: This notice proposes to adopt a new airworthiness directive (AD), applicable to certain Boeing Model 737, 757, and 747-400 series airplanes, which would require replacement of the radio control panels (RCP) in the flight deck. This amendment is prompted by reports of uncommanded frequency changes of the Very High Frequency (VHF) and High Frequency (HF) radios. This condition, if not corrected, could result in temporary loss of communications with Air Traffic Control (ATC) and result in a hazardous situation during a critical flight phase.

DATES: Comments must be received no later than July 22, 1991.

ADDRESSES: Send comments on the proposal in duplicate to the Federal Aviation Administration, Northwest Mountain Region, Transport Airplane Directorate, ANM-103, Attention: Airworthiness Rules Docket No. 91-NM-86-AD, 1601 Lind Avenue SW., Renton, Washington 98055-4056. The applicable service information may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124. This information may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: Mr. Kenneth J. Schroer, Seattle Aircraft Certification Office, Systems and Equipment Branch, ANM-130S; telephone (206) 227-2795. Mailing address: FAA, Northwest Mountain Region, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington 98055-4056.

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in the making of the proposed rule by submitting such

written data, views, or arguments as they may desire. Communications should identify the Rules Docket number and be submitted in duplicate to the address specified above. All communications received on or before the closing date for comments specified above will be considered by the Administrator before taking action on the proposed rule. The proposal contained in this Notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA/public contact, concerned with the substance of this proposal, will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this Notice must submit a self-addressed, stamped post card on which the following statement is made: "Comments to Docket Number 91-NM-86-AD." The post card will be date/time stamped and returned to the commenter.

Discussion

The manufacturer of Boeing Model 737, 757, and 747-400 series airplanes has reported the occurrence of uncommanded High Frequency (HF) radio frequency changes occurring in certain existing radio control panels currently installed in these airplane models. In addition, one foreign operator has reported four occurrences of uncommanded Very High Frequency (VHF) radio frequency changes during revenue service. Investigation has revealed that the unintended frequency changes are caused by the software attempting to read input information while the information was still being received ("BYTE slicing"). If these frequency changes occur during a critical flight phase, communication with ATC may be temporarily lost and result in a hazardous situation which may not be readily identified by the flight crew.

Boeing has issued Operations Manual Bulletin Number 90-4, dated May 21, 1990, to all operators, alerting flight crews to the possibility that this problem may occur.

Since this condition is likely to exist or develop on other airplanes of this same type design, an AD is proposed which would require replacement of the currently installed radio control panels

in the flight deck, with modified panels that are approved by the FAA.

There are approximately 173 Model 737, 757, and 747-400 series airplanes of the affected design in the worldwide fleet. It is estimated that 20 airplanes of U.S. registry would be affected by this AD, that it would take approximately 2 manhours per airplane to accomplish the required actions, and that the average labor cost would be \$55 per manhour. The airplane manufacturer has indicated that replacement panels will be provided at no cost to the operators. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be \$2,200.

The regulations proposed herein would not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reason discussed above, I certify that this proposed regulation (1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained from the Rule Docket.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend 14 CFR part 39 of the Federal Aviation Regulation as follows:

PART 39—[AMENDED]

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); and 14 CFR 11.89.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

Boeing: Docket No. 91-NM-86-AD.

Applicability: Model 737, 757, and 747-400 series airplanes, equipped with Boeing part number (P/N) 285U0037 series radio control panels, certificated in any category.

Compliance: Required within 9 months after the effective date of this AD, unless previously accomplished.

To prevent uncommanded frequency changes of the HF and VHF radios, accomplish the following:

(a) Remove the P/N 285U0037 series radio control panels and replace them with panels approved by the Manager, Seattle Aircraft Certification Office (ACO), FAA, Transport Airplane Directorate.

(b) An alternative method of compliance or adjustment of the compliance time, which provides an acceptable level of safety, may be used when approved by the Manager, Seattle Aircraft Certificate Office (ACO), FAA, Transport Airplane Directorate.

Note: The request should be forwarded through an FAA Principal Inspector, who may concur or comment and then send it to the Manager, Seattle ACO.

(c) Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base in order to comply with the requirements of this AD.

All persons affected by this directive who have not already received the appropriate service documents from the manufacturer may obtain copies upon request to Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124. These documents may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington.

Issued in Renton, Washington, on May 22, 1991.

Jim Devany,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.
[FR Doc. 91-13102 Filed 6-3-91; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 71

[Airspace Docket No. 90-AWA-13]

Airport Radar Service Area, Long Beach, CA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM); extension of comment period.

SUMMARY: This notice announces an extension of comment period on an NPRM which proposed to establish an Airport Radar Service Area (ARSA) at Long Beach (Daugherty Field), CA, and adjust the southwest confines of the John Wayne Airport/Orange County ARSA to accommodate the adjoining Long Beach ARSA.

DATES: Comments must be received on or before August 16, 1991.

ADDRESSES: Send comments on the proposal in triplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attention: Rules Docket

[AGC-10], Airspace Docket No. 90-AWA-13, 800 Independence Avenue, SW., Washington, DC 20591.

The official docket may be examined in the Rules Docket, weekdays, except Federal holidays, between 8:30 a.m. and 5:00 p.m. The FAA Rules Docket is located in the Office of the Chief Counsel, room 916, 800 Independence Avenue, SW., Washington, DC.

An informal docket may also be examined during normal business hours at the office of the Regional Air Traffic Division.

FOR FURTHER INFORMATION CONTACT:

Alton D. Scott, Airspace and Obstruction Evaluation Branch (ATP-240), Airspace-Rules and Aeronautical Information Division, Air Traffic Rules and Procedures Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone: (202) 267-9252.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposals. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy aspects of the proposal. Communications should identify the airspace docket and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on the Correction to NPRM must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 90-AWA-13." The postcard will be date/time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal may be changed in the light of comments received. All comments submitted will be available for examination in the Rules Docket both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

Any person may obtain a copy of the Notice of Proposed Rulemaking (NPRM)

by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Inquiry Center, APA-230, 800 Independence Avenue, SW., Washington, DC 20591, or by calling (202) 267-3484.

Communications must identify the notice number of the document. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11-2A which describes the application procedure.

Background

Airspace Docket No. 90-AWA-13, published on April 26, 1991, (56 FR 19498) proposed to establish an ARSA at Long Beach (Daugherty Field), CA, and adjust the southwest confines of the John Wayne Airport/Orange County ARSA to accommodate the adjoining Long Beach ARSA. On August 8, 1991, an additional informal airspace meeting will be conducted in the Long Beach area. This action will accommodate this proceeding and allow an opportunity for public comment following the informal airspace meeting. This action will extend the comment period closing date to allow additional time to comment on Airspace Docket No. 90-AWA-13.

List of Subjects in 14 CFR Part 71

Aviation safety, Airport radar service areas.

Extension of Comment Period

The comment period for Airspace Docket No. 90-AWA-13 is extended to close on August 16, 1991.

Authority: 49 U.S.C. 1348(a), 1354(a), 1510; Executive Order 10854; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); 14 CFR 11.69.)

Issued in Washington, DC on May 23, 1991.

Harold W. Becker,

Manager, Airspace-Rules and Aeronautical Information Division.

[FR Doc. 91-13103 Filed 6-3-91; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Parts 71 and 75

[Airspace Docket No. 91-AWP-3]

Proposed Alteration of VOR Federal Airways and Jet Routes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to alter the descriptions of the Federal airways and jet routes extending from the Salt River (SRP) VORTAC located in Phoenix, AZ. The Salt River VORTAC is being relocated four miles west of its

present position. This notice proposes to alter the en route airway structure to coincide with this relocation. Additionally, the Salt River VORTAC will be renamed the Phoenix (PXR) VORTAC.

DATES: Comments must be received on or before July 24, 1991.

ADDRESSES: Send comments on the proposal in triplicate to: Manager, Air Traffic Division, AWP-500, Docket No. 91-AWP-3, Federal Aviation Administration, P.O. Box 92007, Worldway Postal Center, Los Angeles, CA 90009.

The official docket may be examined in the Rules Docket, weekdays, except Federal holidays, between 8:30 a.m. and 5 p.m. The FAA Rules Docket is located in the Office of the Chief Counsel, room 916, 800 Independence Avenue SW., Washington, DC.

An informal docket may also be examined during normal business hours at the office of the Regional Air Traffic Division.

FOR FURTHER INFORMATION CONTACT:

Alton D. Scott, Airspace and Obstruction Evaluation Branch (ATP-240), Airspace-Rules and Aeronautical Information Division, Air Traffic Rules and Procedures Service, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591; telephone: (202) 267-9252.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposals. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy aspects of the proposals. Communications should identify the airspace docket and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 91-AWP-3." The postcard will be date/time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal

contained in this notice may be changed in the light of comments received. All comments submitted will be available for examination in the Rules Docket both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Inquiry Center, APA-230, 800 Independence Avenue SW., Washington, DC 20591, or by calling (202) 267-3484.

Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11-2A which describes the application procedure.

The Proposals

The FAA is considering amendments to parts 71 and 75 of the Federal Aviation Regulations (14 CFR parts 71 and 75) to alter the descriptions of the VOR Federal airways and jet routes located in Phoenix, AZ. On December 11, 1989, the FAA published in the Federal Register (54 FR 50982) the final rule on the Phoenix Terminal Control Area (TCA) with an effective date of January 11, 1990. During the rulemaking process many commenters suggested that the FAA establish a very high frequency omnidirectional radio range (VOR) on the airport at Phoenix. The FAA agreed and during June 1989, the FAA identified an acceptable site 1.8 nautical miles (NM) east of Phoenix Sky Harbor Airport. This location has now become available; the Salt River VORTAC will be relocated to this site. Congruent with this move the Salt River VORTAC will be renamed the Phoenix VORTAC (PXR). This notice proposes to alter the en route airway structure to coincide with this relocation. Sections 71.123 and 75.100 of parts 71 and 75 of the Federal Aviation Regulations were republished in Handbook 7400.6G dated September 4, 1990.

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not

warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Parts 71 and 75

Aviation Safety, VOR Federal airways and jet routes.

The Proposed Amendments

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend parts 71 and 75 of the Federal Aviation Regulations (14 CFR parts 71 and 75) as follows:

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

1. The authority citation for part 71 continues to read as follows:

Authority: 49 U.S.C. 1348(a), 1354(a), 1510; Executive Order 10854; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); 14 CFR 11.69.

§ 71.123 [Amended]

2. § 71.123 is amended as follows:

V-18 [Amended]

By removing the words "Salt River, AZ; INT Salt River 161° and Stanfield, AZ, 105° radials;" and substituting the words "Phoenix, AZ; INT Phoenix 155°T(141°M) and Stanfield, AZ, 105°T(091°M) radials;"

V-95 [Amended]

By removing the words "From Gila Bend, AZ, via INT Gila Bend 096° and Salt River, AZ, 204° radials; Salt River;" and substituting the words "From Gila Bend, AZ, via INT Gila Bend 096°T(082°M) and Phoenix, AZ, 197°T(183°M) radials, Phoenix;"

V-195, V-190 and V-257 [Amended]

By removing the words "Salt River, AZ" and substituting the words "Phoenix, AZ"

V-327 [Revised]

From Phoenix, AZ, INT Phoenix 011°T(357°M) and Flagstaff, AZ, 186°T(172°M) radials; Flagstaff.

V-528 [Revised]

From Phoenix, AZ; INT Phoenix 046°T(032°M) and St. Johns, AZ, 266°T(254°M) radials; St. Johns."

V-562 [Amended]

By removing the words "From Salt River, AZ; via INT Salt River 006° and Drake, AZ, 131° radials;" and substituting the words "From Phoenix, AZ; via INT Phoenix

011°T(357°M) and Drake, AZ, 131°T(117°M) radials;"

V-567 [Revised]

From Phoenix, AZ; via INT Phoenix 011°T(357°M) and Winslow, AZ, 224°T(210°M) radials; 52 miles, 95 MSL; to Winslow.

PART 75—ESTABLISHMENT OF JET ROUTES AND AREA HIGH ROUTES

3. The authority citation for part 75 continues to read as follows:

Authority: 49 U.S.C. 1348(a), 1354(a), 1510; Executive Order 10854; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); 14 CFR 11.69.

§ 75.100 [Amended]

4. § 75.100 is amended as follows:

J-11 [Revised]

From Tucson, AZ, via INT Tucson 320°T(306°M) and Phoenix, AZ, 155°T(141°M) radials; Phoenix; Drake, AZ; Bryce Canyon, UT; Fairfield, UT; to Salt Lake City, UT.

J-18, J-44 and J-92 [Amended]

By removing the words "Salt River, AZ" and substituting the words "Phoenix, AZ"

J-19 [Amended]

By removing the words "From Salt River, AZ, via INT Salt River 051° and Zuni, AZ, 242° radials;" and substituting the words "From Phoenix, AZ, via INT Phoenix 052°T(038°M) and Zuni, AZ, 242°T(228°M) radials;"

J-65 [Amended]

By removing the words "Salt River, AZ; INT Salt River 272° and Blythe, CA, 096° radials;" and substituting the words "Phoenix, AZ; INT Phoenix 272° T (258°M) and Blythe, CA, 096° T (082°M) radials;"

J-192 [Amended]

By removing the words "From Salt River, AZ; INT Salt River 068° and Zuni, NM, 226° radials; and substituting the words "From Phoenix, AZ; INT Phoenix 068°T(052°M) and Zuni, NM, 226°T(212°M) radials;"

Issued in Washington, DC, on May 23, 1991.

Harold W. Becker,

Manager, Airspace—Rules and Aeronautical Information Division.

[FR Doc. 91-13104 Filed 6-3-91; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF THE TREASURY

Customs Service

19 CFR Part 162

Proposed Customs Regulation Amendment Regarding the Disposition of Low-Value Seized Property

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: Proposed rule.

SUMMARY: Customs is proposing to amend the Customs Regulations pertaining to the destruction or other appropriate disposition of seized property valued at less than \$1,000 where the expense of storing such property is disproportionate to the value of the property and to define disproportionate insofar as it relates to the amount of the seizure costs as compared to the value of the seized property. Additionally, Customs is proposing to amend the Customs Regulations to include the statutory administrative petitioning and judicial hearing rights of a claimant to destroyed or otherwise disposed of property. The Customs Regulations are also proposed to be amended to provide that a claimant receiving full or partial relief from the forfeiture will be reimbursed the difference between the value of the merchandise at the time of seizure and any remitted forfeiture amount that the claimant is required to pay. The proposed amendment will increase the efficiency of Customs seized property program without unduly affecting the rights of claimants to seized property.

DATES: Comments must be received on or before August 5, 1991.

ADDRESSES: Written comments may be submitted to and inspected at the Regulations and Disclosure Law Branch, U.S. Customs Service, 1301 Constitution Avenue NW., room 2119, Washington, DC 20229.

FOR FURTHER INFORMATION CONTACT: Jeremy Baskin, Penalties Branch (202) 566-8317.

SUPPLEMENTARY INFORMATION:

Background

The Tariff and Trade Act of 1984 amended § 612 of the Tariff Act of 1930, as amended, to provide that if the expense of keeping any vessel, vehicle, aircraft, merchandise or baggage is disproportionate to the value thereof, and such value is less than \$1,000, destruction or other appropriate disposition of such property may proceed forthwith (19 U.S.C. 1612(b)). This provision permits the appropriate Customs officer to order the immediate destruction or other appropriate disposition of low-value seized property that is too costly to store without requiring the completion of forfeiture proceedings prior to destruction or disposition of the seized property.

The Customs Regulations currently provide for the disposition of low-valued seized property in § 162.46(d)(2) (19 CFR 162.46(d)(2)). Customs is proposing to amend the Customs Regulations to clarify the meaning of disproportionate as it relates to the amount of seizure

costs as compared to the value of the seized property. As proposed, the Customs Regulations would provide that the expense of keeping and maintaining the property will be presumed to be disproportionate to its value where the expense has reached or is anticipated to reach 50 percent of the value of the property.

The Customs Regulations are proposed to be amended to include the statutory requirement that the right of a claimant relating to seized property which has been destroyed or otherwise disposed of will not be extinguished without the completion of forfeiture proceedings. (19 U.S.C. 1607.) Customs is also proposing to amend the Customs Regulations to provide that the administrative petitioning rights of a claimant, as provided for by § 618 of the Tariff Act of 1930, as amended, (19 U.S.C. 1618) and part 171 of the Customs Regulations (19 CFR part 171), will be preserved. Additionally, the Customs Regulations are proposed to be amended to provide that a claimant receiving full or partial relief from the forfeiture will be reimbursed the difference between the value of the merchandise at the time of seizure pursuant to 19 U.S.C. 1606 and § 162.43 of the Regulations (19 CFR 162.43) and any remitted forfeiture amount that the claimant is required to pay.

It is proposed that the Customs Regulations be amended to state that a claimant may file a claim and cost bond seeking judicial condemnation of the property pursuant to 19 U.S.C. 1608. Additionally, the Customs Regulations are proposed to be amended to include that, pursuant to 19 U.S.C. 1613b, a successful claimant to the destroyed or otherwise disposed of property will be compensated from the Customs Forfeiture Fund.

Comments

Prior to final determination, consideration will be given to any written comments timely submitted to Customs. Submitted comments will be available for public inspection in accordance with the Freedom of Information Act (5 U.S.C. 552), § 1.4, Treasury Department Regulations (31 CFR 1.4), and § 103.11(b), Customs Regulations (19 CFR 103.11(b)), on regular business days between the hours of 9 a.m. and 4:30 p.m. at the Regulations and Disclosure Law Branch, Room 2119, U.S. Customs Service Headquarters, 1301 Constitution Avenue, NW., Washington, DC.

Executive Order 12291 and Regulatory Flexibility Act

In that this amendment does not meet the criteria for a "major rule" within the meaning of Executive Order 12291, Customs has not prepared a regulatory impact analysis. This proposed amendment is certified under the provisions of § 3 of the Regulatory Flexibility Act (5 U.S.C. 605(b)) not to have a significant economic impact on a substantial number of small entities.

Drafting Information

The principal author of this document was Michael Smith, Regulations and Disclosure Law Branch, Office of Regulations and Rulings. However, personnel from other offices participated in its development.

List of Subjects in 19 CFR Part 162

Administrative practice and procedure, Law enforcements, Penalties, Search warrants, Seizures and forfeitures, Reporting and recordkeeping requirements.

Proposed Amendment to Regulations

It is proposed to amend part 162, Customs Regulations (19 CFR part 162), as set forth below:

PART 162—RECORDKEEPING, INSPECTION, SEARCH, AND SEIZURE

1. The general authority for Part 162 and the authority for § 162.46 continue to read as follows and the authority for § 162.48 is revised:

Authority: 5 U.S.C. 301; 19 U.S.C. 66, 1624.

* * * * *

Section 162.46 also issued under 19 U.S.C. 1609, 1611;

* * * * *

Section 162.48 also issued under 19 U.S.C. 1606, 1607, 1608, 1612, 1613b, 1618;

* * * * *

§ 162.46 [Amended]

2. It is proposed to amend § 162.46 by redesignating paragraph (d)(1) as paragraph (d) and by removing paragraph (d)(2).

3. It is proposed to amend § 162.48 by revising the section heading, designating the text as paragraph (a) and adding a new paragraph heading, and adding a new paragraph (b), to read as follows:

§ 162.48 Disposition of perishable and low-value property.

(a) *Disposition of perishable property.*

(b) *Disposition of low-value property.*
(1) If the expense of keeping any vessel, vehicle, aircraft, merchandise or baggage is disproportionate to the value

thereof, and such value is less than \$1,000, destruction or other appropriate disposition of such property may be ordered by the appropriate Customs officer. Storage expenses are presumed to be disproportionate to the value of the property where the expense has reached or is anticipated to reach 50 percent of the value of the property. The right of a claimant to seized property which has been destroyed or otherwise disposed of shall not be extinguished.

(2) Publication of a notice of the seizure, regardless of the disposition of the property, will be required pursuant to 19 U.S.C. 1607. Claimants to seized property will be permitted to file a petition for remission of the forfeiture pursuant to 19 U.S.C. 1618, and Part 171 of this Chapter. A claimant receiving full or partial relief from the forfeiture shall be reimbursed the difference between the value of the merchandise at the time of seizure, pursuant to 19 U.S.C. 1606 and § 162.43 of this part, and any remitted forfeiture amount that the claimant is required to pay.

(3) A claimant to destroyed or otherwise disposed of seized property requesting relief in the form of payment may file a claim and cost bond and seek judicial hearing on the forfeiture pursuant to 19 U.S.C. 1608.

(4) Successful claimants shall be compensated from the Customs Forfeiture Fund pursuant to 19 U.S.C. 1613b.

Approved: May 7, 1991.

John P. Simpson,
Acting Assistant Secretary of the Treasury.
Carol Hallett,
Commissioner of Customs.
[FR Doc. 91-13126 Filed 6-3-91; 8:45 am]
BILLING CODE 4920-02-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 155

[Docket No. 88P-0373]

Canned Green Beans and Canned Wax Beans; Amendment of the Standard of Identity

AGENCY: Food and Drug Administration, HHS.

ACTION: Reproposed rule.

SUMMARY: The Food and Drug Administration (FDA) is reproposing to amend the standard of identity for canned green beans and canned wax beans to permit the optional use of glucono delta-lactone. Glucono delta-

lactone will serve to lower the pH, to reduce processing time and temperature, and thereby to enhance the color, flavor, and texture of the product. This action will, to the extent practicable, provide greater flexibility in the processing of these products and will promote honesty and fair dealing in the interest of consumers. FDA is reproposing this amendment to reflect the recent changes in statutory authority for food standards resulting from the November 8, 1990, passage of the Nutrition Labeling and Education Act of 1990 (the 1990 amendments).

DATES: Comments by July 5, 1991. The Agency proposes that any final rule that may be issued based upon this reproposal shall become effective on the date of publication of the final rule in the Federal Register.

ADDRESSES: Written comments to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Nannie H. Rainey, Center for Food Safety and Applied Nutrition (HFF-414), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, (202) 485-0107.

SUPPLEMENTARY INFORMATION: In the Federal Register of October 11, 1990 (55 FR 41346), FDA published a proposed rule to amend the standard of identity for canned green beans and canned wax beans in § 155.120 (21 CFR 155.120). The proposal responded to a citizen petition submitted jointly by the Seymour Canning Co., Seymour, WI 54185; the American National Can Co., Chicago, IL 60631; and Finnsugar Biochemicals Inc., Schaumburg, IL 60173. The petition requested that FDA amend the standard of identity for canned green beans and canned wax beans (§ 155.120) to permit the optional use of added glucono delta-lactone, either alone, or in combination with other acidulants permitted by the standard. According to the petition, glucono delta-lactone acts as a pH control agent and serves to lower the equilibrium pH to below 4.6, to reduce the time and temperature parameters for thermal processing, and thereby to enhance the color, texture, and flavor of the canned beans and canned wax beans.

On its own initiative, FDA proposed to update the method of analysis in § 155.120(b)(2)(i) to refer to the latest edition of the "Official Methods of Analysis of the Association of Official Analytical Chemists" (AOAC), 15th Ed. (1990), as well as reference the new address of the AOAC office. Since development of the proposal, the

address has been corrected in the existing regulation. Interested persons were given until December 10, 1990, to submit comments. No comments were received in response to the proposal.

The petition submitted by Seymour Canning Co., American National Can Co., and Finnsugar Biochemicals, Inc. was filed under section 701(e) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 371(e)) which requires formal rulemaking in any action for the amendment of a food standard. However, on November 8, 1990, the 1990 amendments removed food standards, except for the amendment or repeal of food standards for dairy products (21 CFR parts 131, 133, and 135) and maple syrup (21 CFR 168.140), from the formal rulemaking procedures of section 701(e) of the act (21 U.S.C. 371(e)). Consequently, action on the petition submitted by Seymour Canning Co., American National Can Co., and Finnsugar Biochemicals, Inc., is now subject to the informal rulemaking procedures (notice and comment rulemaking) of section 701(a) of the act (21 U.S.C. 371(a)). To reflect this change in statutory authority and to ensure that no one is prejudiced by this change in procedure, FDA is issuing this reproposal. Interested persons will have an additional 30 days in which to comment.

The agency believes that it is reasonable to provide for the use of glucono delta-lactone as a pH control agent in canned green beans and canned wax beans and that such use will promote honesty and fair dealing in the interest of consumers and is therefore amending § 155.120 (a)(3) and (b)(2) as set forth below.

Accordingly, the agency is issuing a repropose rule that sets forth an amendment to the standard of identity for canned green beans and canned wax beans in § 155.120 to permit the optional use of glucono delta-lactone. In addition, the repropose rule will update the method of analysis in § 155.120(b)(2)(i) to refer to the latest edition of the "Official Methods of Analysis of the Association of Official Analytical Chemists" (AOAC), 15th Ed. (1990).

Economic Impact

In accordance with the Regulatory Flexibility Act (Pub. L. 96-354) (5 U.S.C. 601), FDA reviewed the repropose rule to amend the standard of identity for canned green beans and canned wax beans to permit the optional use of glucono delta-lactone to determine its impact on small entities, including small businesses. FDA tentatively determined

that because the effect of the amendment is to permit increased flexibility in the processing of these foods to both large and small entities, the proposed action will not result in a significant impact on a substantial number of small entities. FDA has not received any new information or comments that would alter this tentative determination. Therefore, FDA certifies in accordance with section 605(b) of the Regulatory Flexibility Act, that no significant economic impact on a substantial number of small entities will derive from this action.

In accordance with Executive Order 12291, FDA has carefully analyzed the economic effects of this reproposal, and the agency has determined that the repropounded rule, if promulgated, will not be a major rule as defined by that order.

List of Subjects in 21 CFR Part 155

Food grades and standards,
Incorporation by reference, Vegetables.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Director, Center for Food Safety and Applied Nutrition, 21 CFR Part 155 is amended as follows:

PART 155—CANNED VEGETABLES

1. The authority citation for 21 CFR part 155 continues to read as follows:

Authority: Secs. 201, 401, 403, 409, 701, 706 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321, 341, 343, 348, 371, 376).

2. Section 155.120 is amended by redesignating existing paragraphs (a)(3)(xiii) and (a)(3)(xiv) as paragraphs (a)(3)(xiv) and (a)(3)(xv), respectively; by adding a new paragraph (a)(3)(xiii); and by revising paragraph (b)(2)(i) to read as follows:

§ 155.120 Canned green beans and canned wax beans.

(a) * * *
(3) * * *
(xiii) Glucono delta-lactone.

* * * * *

(b) * * *
(2) * * *

(i) Determine the gross weight of the container. Open and distribute the contents of the container over the meshes of a U.S. No. 8 circular sieve with openings of 2.36 mm (0.0937 in), which has been previously weighed. The diameter of the sieve is 20.3 cm (8 in) if the quantity of contents of the container is less than 1.36 kg (3 lb) and 30.5 cm (12 in) if such quantity is 1.36 kg (3 lb) or more. The bottom of the sieve is woven-wire cloth that complies with the specifications of such cloth set forth in

"Official Methods of Analysis of the Association of Official Analytical Chemists," 15th Ed. (1990), Table 1, "Nominal Dimensions of Standard Test Sieves (USA Standard Series)," page xvi, under the heading "Definitions of Terms and Explanatory Notes," which is incorporated by reference in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from the Association of Official Analytical Chemists, Suite 400, 2200 Wilson Blvd., Arlington, VA 22201-3301, or may be examined at the Office of the Federal Register, 1100 L St. NW., Washington, DC. Without shifting the material on the sieve, incline the sieve 17 to 20° to facilitate drainage. Two minutes after drainage begins, weigh the sieve and the drained material. Record in grams (ounces) the weight so found, less the weight of the sieve, as the drained weight. Dry and weigh the empty container and subtract this weight from the gross weight to obtain the net weight. Calculate the percent of drained liquid in the net weight.

* * * * *

Dated: May 24, 1991.

Fred R. Shank,

Director, Center for Food Safety and Applied Nutrition.

[FR Doc. 91-13098 Filed 6-3-91; 8:45 am]

BILLING CODE 4160-01

DEPARTMENT OF STATE

Bureau of Consular Affairs

22 CFR Part 43

[Public Notice 1405]

Visas: Documentation of Immigrants

AGENCY: Bureau of Consular Affairs, State.

ACTION: Notice of proposed rule.

SUMMARY: This proposed rule would implement section 132 of Public Law 101-649 which establishes a three-fiscal-year (fiscal years 1992, 1993, and 1994) program for the issuance of 40,000 visas per year to aliens who are natives of foreign states (other than Canada) designated as "adversely affected" within the meaning of section 314 of Public Law 99-603, as amended. The program would operate in a manner similar to that established to implement section 314 (the NP-5 Program). Because of the many similarities between §§ 132 and 314, the Department proposes to designate current §§ 43.1 through 43.6 as subpart A of part 43 and to designate the regulations implementing section 132 as subpart B of part 43 of 22 CFR.

DATES: Written comments must be received on or before July 5, 1991.

ADDRESSES: Interested persons are invited to submit comments in duplicate to: Director, Office of Legislation, Regulations, and Advisory Assistance, Visa Office, Department of State, Washington, DC 20522-0113.

FOR FURTHER INFORMATION CONTACT: Cornelius D. Scully, III, Director, Office of Legislation, Regulations, and Advisory Assistance, (202) 663-1184.

SUPPLEMENTARY INFORMATION:

General

Section 132 of Public Law 101-649 establishes a three-fiscal-year program for the issuance of 40,000 immigrant visas per year to applicants who meet certain requirements and who make application under a procedure set forth in the section itself. In broad terms, section 132 derives from section 314 of Public Law 99-603, as amended, and, in many ways, closely resembles it.

The Department established part 43 of title 22, Code of Federal Regulations, to set forth the regulations implementing section 314. A very detailed discussion of section 314, the Department's interpretation of it, the procedures for its implementation and the Department's rationale for those procedures is set forth in the Supplementary Information to the regulatory publications, which can be found at 52 FR 1447 (January 14, 1987), 52 FR 17944 (May 13, 1987), and 53 FR 49979 (December 13, 1988). The Department does not consider it necessary repeat extensively the information contained in those earlier publications, but will refer to it as appropriate.

Applicants Entitled To Compete

Section 132(b) defines a qualified alien as a "native of a foreign state that is not contiguous to the United States" which was identified as an adversely affected foreign state for the purposes of section 314 of the Immigration Reform and Control Act of 1986" (Pub. L. 99-603). This definition, while derivative from section 314, is somewhat different in that it incorporates by reference the regulatory definition set forth in § 43.2 of this Part. It is also different in that it uses the term "foreign state" while section 314 used the word "country." It is clear, however, from the legislative history that the Congress did not envision a substantive change when it substituted "foreign state" for "country." Accordingly, the Department proposes to define "adversely affected foreign state" for the purpose as having the

meaning ascribed to the term "adversely affected country" by § 43.2 of this Part.

The country which was identified as adversely affected for purposes of section 314 and which is contiguous to the United States and Canada. Accordingly, natives of Canada will not be entitled to compete for visas under section 132. The Department proposes to implement this prohibition by prohibiting natives of Canada from registering for this program.

Because of questions which arose during the implementation of section 314 the Department proposes to include a definition of the word "native." One of the questions related to the issue of "alternate foreign state chargeability." Under the Immigration and Nationality Act, as amended, the administration of the numerical limitations on immigration is based upon place of birth. In determining to which foreign state or dependent area is numerically-limited immigrant shall be charged, the primary rule is that the immigrant is charged to the foreign state or dependent area in which he or she was born. Section 202(b) establishes certain circumstances in which an immigrant may be charged to a foreign State or dependent area other than the one of birth. These are referred to informally as the "rules of alternate foreign state chargeability." The Department does not intend to include here a detailed explanation of those "rules" but wishes to make it clear in the proposed regulations that those "rules" do apply in determining whether or not an individual alien is entitled to compete for visas under section 132.

The Department wishes to make clear that the alien's entitlement to alternate foreign state chargeability to a qualifying foreign state must exist at the time of the application period during which the alien applies. An alien will not be permitted to claim the benefit of this program on the basis that, even though not entitled to compete as of the application period, he or she has subsequently become so entitled.

The second question related to the boundaries of foreign states or dependent areas for this purpose. The Department wishes to emphasize that the boundaries for this purpose are those recognized by the United States as of the time of the application period. Cases arose during the implementation of section 314 in which an alien's place of birth had been a part of one country at the time of birth, but had become part of another country by the time the alien applied. Where such a change has occurred and has been recognized by the United States, section 202 of the Immigration and Nationality Act, as amended, requires that the alien be

treated as chargeable to the country having recognized jurisdiction over the place of birth as of the time of the application. This interpretation will be applied in the administration of section 132.

Application Forms

Under the original NP-5 Program, the Department did not find it necessary to establish a pre-printed application form. The information required to be submitted was very limited—name, date and place of birth, address of record, visa-issuing office at which the application would be processed, if selected, and the name(s), date(s) and place(s) of birth of spouse and child(ren), if any. The Department believed that the applicants could just as easily provide this information on a sheet of paper. The system worked satisfactorily. Applicants understood what they were expected to do and did it and as well as they would have done had there been a pre-printed form.

Under the proposed program, applicants are required to submit the same information. They must, however, also present a "firm offer of employment for at least one year." The offer of employment to be presented by the applicant must be prepared by the prospective employer. The applicant cannot prepare it. Accordingly, the Department proposes that the application be in the same form as was required for the NP-5 program and that it be accompanied by a separate writing from the prospective employer setting forth the offer of employment.

Firm Offer of Employment For One Year

The Department has considered how to treat the requirement that an applicant present a firm offer of employment for at least one year beginning on the date of admission for permanent residence. It does not appear to be realistic to require that the employer commit himself formally to retain the applicant for a minimum of one year in the offered position. Such a commitment would be inconsistent with normal employment practices. It is the Department's view that the purpose of the one-year requirement in section 132 is to make certain that the employment offered not be of an inherently time-limited character. Accordingly, the Department proposes to define "firm offer of employment for at least one year" to mean that the terms of the offer of employment do not, but its terms, limit the duration of the employment to less than one year.

Special Making of Envelopes

Because of the provisions described below requiring that 40 percent of the visa numbers available during each fiscal year be made available to natives of Ireland, the Department proposes to require that each applicant type or print legibly the name of the adversely affected country of which he or she is a native in the upper left-hand corner of the front of the envelope in which the application is mailed.

This new requirement is added in order to facilitate the registration process. The Department foresees the possibility that, depending upon the order in which applications are received, it might be necessary to continue to register natives of Ireland after a sufficient number of natives of other adversely affected countries have already been registered. If each envelope bears on its face the name of the adversely affected country of which the applicant is a native, the process of registering additional natives of Ireland will be facilitated by allowing quick identification of their applications.

Application Procedure and Timing

Proposed §§ 43.13(a) and (b) do not specify the precise dates of the application periods. Rather, it is proposed to announce both the dates of application and the address to which the application is to be mailed in a Public Notice in the *Federal Register*, with appropriate publicity given to both, in the United States and abroad. The Department envisions that the mechanism employed for this purpose will be the same as that employed for the NP-5 program, as discussed and described in detail in the regulatory publications dealing with the original NP-5 program—52 FR 1447 and 52 FR 17944.

The Department will likely be able to specify both the dates and the address by the time of publication of the Final Rule, but believes that it is preferable to announce each of these details separately. Section 132 requires a separate mail-in period for each of the applicable fiscal years. The Department cannot now specify when or to what address applications for fiscal year 1993 or 1994 should be sent and does not believe that it will be able to do so at the time of promulgation of the Final Rule. Logic would indicate that a Public Notice each year, with appropriate attendant publicity, is the preferable way to announce this information to the interested public.

Registration and Notification Procedures

There will be significant differences in the registration and notification procedures under this program from those used under the original NP-5 program. The differences are dictated by differences in the statutory scheme. Under the original NP-5 program, there was established a single mail-in period because the statute did not provide for more than one and the volume of applications received during the initial mail-in period was more than sufficient to produce applicants for all of the available visas. In addition, the program lasted for two years. This meant that a successful applicant could be processed for visa issuance either in the first or the second year of the program. The registration and notification process for that program took these facts into account.

In the NP-5 program the first 10,000 registrants constituted a primary list. Each was immediately notified that he or she should prepare for visa issuance (the Packet 3 letter). The next 15,000 registrants were sent a Packet 3A letter, informing them that they were registered but that further processing would be possible only if registrants on the primary list failed to pursue their applications. As the implementation of the program proceeded and it was possible to observe the rate at which registrants pursued their applications, the Department was able to send Packet 3 notifications to registrants on the secondary list, in the knowledge that there would be time for those registrants to complete the necessary processing before the program ended.

Section 132 contains provisions which will require a different mechanism. First, a separate mail-in period is required for each fiscal year. Second, applications registered in each mail-in period are valid only for the fiscal year in question. For the registrant who does not receive an immigrant visa during that year, the registration becomes invalid.

These requirements are born of the Department experience with the NP-5 program. A significant problem under the NP-5 program was the "stale address" problem—frequently, by the time it became possible for the Department to notify a registrant that he or she should complete processing, the registrant had moved and never received the notification. The requirement for an annual mail-in and the limitation on the validity of applications are designed to reduce or eliminate the "stale address" problem.

On the other hand, a new potential problem is created by those requirements. The Department does not

believe that it will be possible to create separate primary and secondary lists of registrants. The time limitation will make it necessary to create a single list of registrants, all of whom will receive the Packet 3 notification immediately. Time will not permit subsequent adjustments to take into account drop-outs among the primary registrants. Thus, the initial notifications will have to be sent to a number of applicants in excess of the total of available visa numbers, in order to make certain that visas do not go unissued for lack of applicants ready for visa issuance.

The Department is well aware of the fact that a number of applicants who were sent the Packet 3 notification letter under the NP-5 program and who completed the necessary processing before the end of the program could not be issued visas for lack of visa numbers under the program's numerical limitations. As a result certain individuals appear to believe that the Department erred in raising unfulfilled hopes and expectations among those applicants.

The Department cannot emphasize too strongly a point it made in its discussion of the NP-5 regulations—no visa applicant can, as a matter of law, expect to receive a visa until the visa has been issued and delivered to him or her. At every stage of the process statutory requirements can intervene to prevent the issuance of a visa to an applicant who might, at first glance, appear certain to receive one. Those statutory requirements include the numerical limitations, the requirement for processing in chronological order of registration, and the possible applicability of a ground of exclusion which cannot be waived.

The Department anticipates that it will register applicants in chronological order of the receipt of their mail, as was done in the NP-5 program, until a list of approximately 50,000 applicants has been established. There will be no further registrations from among that group of applicants. Packet 3 notifications will be sent to all registered applicants. The administrative processing of those applicants will then proceed as rapidly as possible. Each month, visas will be issued, again in chronological order of registration, to those applicants ready for visa issuance during that month, up to the limit established for that month. Once the total of 40,000 visas has been issued, the program for that year will end.

Numerical Limitations

The numerical limitations established in section 132, in addition to being larger

than those established under the original NP-5 program, contain an element requiring a different implementation than that provided for the NP-5 program. Section 314 did not contain any limitation on the number of visas which could be issued to natives of any single adversely affected country. The Department imposed such a limitation administratively, on the theory that it was appropriate to distribute the available visas among natives of the various qualifying countries on a basis which approximated the extent to which each had been adversely affected.

Section 132, on the other hand, expressly requires that at least 40 percent of each year's total of 40,000 be made available to natives of the country which received the largest percentage of the NP-5 visas. That country was Ireland. Thus, the Congress has mandated that at least 40 percent of the visas available under this program be made available to natives of Ireland. Proposed § 43.15 would establish a numerical control system to accomplish this statutory mandate. The Department interprets this express requirement as a deliberate rejection of the per country limitation included in the original NP-5 program. Accordingly, the Department does not propose to include a per country limitation in these implementing regulations.

It is important to note that natives of Ireland will not be limited to 40 percent of the total visas available. The language of section 132 guarantees them a minimum of 40 percent, but does not limit them to that amount. Should they qualify on a chronological basis, for more than 40 percent, they will be entitled, as a matter of law, to whatever higher number chronological processing might produce. The numerical control system proposed in § 43.15 would establish a system which could produce that result.

Fees

Section 132(f) requires the Secretary of State to establish a processing fee to be paid for filing an application and to set the fee at an amount sufficient to "cover the cost of processing applicants under this section." Since those registered for immigrant visa processing under this section will have to pay the normal immigrant visa processing and issuance fees, the Department interprets this requirement to apply to the separate costs of holding the mail-in and the registering of applicants. The estimated cost of that process is \$650,000.

The Department has considered how and at what point to collect the required fee. In considering these issues, the

Department has taken into account the fact that it received approximately 1.3 million pieces of mail during the original NP-5 mail-in period. Since there is no way to predict whether the volume of applications under this program will be greater or lesser than under the N-5 program, the Department contemplates that the same volume of mail would be received. On that basis, the per applicant fee would be \$0.50 (fifty cents). Thus, a separate mechanism would have to be created to account for 1.3 million remittances of fifty cents each, including preparing and returning to the applicant a receipt for the fifty cent remittance. Under such a scheme, every piece of mail would have to be opened for the sole purpose of processing the fifty cent remittance, even for those applicants whose chronological order clearly would never under any circumstance allow them to be considered for visa issuance.

Considering all these factors, the Department has concluded that imposing the fee at the time of the mail-in would be counter-productive and unnecessarily complicate the orderly processing of the registrations. The Department has chosen instead to impose the fee on those applicants whose applications are actually registered. The proposal is that applicants to whom Packet 3 is sent notifying them of their registration and instructing them to take the steps necessary to prepare for final action on their applications will be required to remit to the visa issuing office the sum of \$20.00 for each case registered when they return to that office the Form OF-179, Biographic Information for Visa Purposes. The Department estimates that this fee would produce roughly \$700,000 to \$750,000 which would cover the costs of the mail-in and the registration, even if the actual cost should be somewhat larger than estimated.

Imposing the fee in the manner described above appears appropriate to the Department because (1) It imposes the fee upon those who receive the benefit of the program; and (2) it establishes the fee at a level which is reasonable in terms of the individuals paying it but large enough to justify its collection.

In connection with the establishment of this fee, the Department believes it possible that a number of those registered for further processing under this program will be in the United States and will not be prohibited by section 245(c) of the Act from applying for adjustment of status. This occurred under the original NP-5 program and

there is no reason to believe that it will not occur under this program. This proposed rule includes a requirement that the alien in question remit the established fee to the designated visa-issuing office even if he or she intends to apply for adjustment of status, at the same time informing that office of his or her intent to apply for adjustment.

This requirement will ensure that aliens who apply for adjustment do not thereby avoid payment of this fee. It will also allow the visa-issuing office to avoid unnecessary administrative processing of such cases. While the proposed rule does not, for obvious reasons, include provisions affecting the operations of the Immigration and Naturalization Service, the Department will communicate with the Service concerning this requirement and to request that applicants for adjustment of status under this program be required to present a receipt for this processing fee in connection with their application.

Applicability of Grounds of Exclusion

Section 132(e) provides for waivers of certain grounds of exclusion. The language of that section is confusing. One portion of the section provides that the Attorney General shall waive section 212(a)(6)(C) in behalf of an applicant under section 132 unless he finds it not in the national interest to do so. The Department assumes that the Immigration and Naturalization Service will make provision for implementing this portion of section 132(e).

Another portion of section 132(e) specifies that sections 212(a)(5)(B) and (7)(A) shall not apply to aliens applying under section 132. It is not necessary to specify that section 212(a)(5)(B) shall not apply to such aliens as section 212(a)(5)(B) applies, by its own terms, only to certain classes of employment-based immigrants. While it is certainly not improper to restate in section 132 itself what is already clear as a matter of law from language elsewhere in the statute, the Department finds it entirely unnecessary to do so, since it finds no legally supportable argument to suggest that section 212(a)(5)(B) would apply to applicants under section 132, even without this language.

In this connection, the Department has received inquiries about the possible applicability of section 212(a)(5)(A)—the labor certification requirement—to applicants under section 132. The inquirers explained that it had been intended, they understood, to specify that section 212(a)(5)(A) was not applicable to these aliens. They expressed concern that the inadvertent use of 212(a)(5)(B) instead of section 212(a)(5)(A) might result in the

application of the labor certification requirement to these aliens. The Department takes the same position about section 212(a)(5)(A) as about section 212(a)(5)(B). By its express terms, it applies only to certain classes of employment-based immigrants. It is the Department's opinion that it cannot, as a matter of law, be construed to apply to any classes of immigrants other than those expressly listed in the section itself.

The provision that section 212(a)(7)(A) shall not apply to these aliens clearly appears to be a technical error. Section 212(a)(7)(A)(I) requires an immigrant alien to be in possession of a valid unexpired immigrant visa and such travel documentation as might be required by regulations, when applying for admission at a port of entry. Section 212(a)(7)(A)(II) denies admission to an alien whose immigrant visa was issued without compliance with section 203 of the Act.

The Department does not believe that the Congress intended to exempt immigrants under section 132 from the requirement to present an immigrant visa when applying for admission at a port of entry. The provision of section 132(a) itself provides for making 40,000 immigrant visas available. Exempting the aliens from the requirement of obtaining an immigrant visa renders this provision irrelevant. It is possible that the Congress only intended to relieve aliens applying under section 132 from the travel document requirement, but not the visa requirement. The Department notes that there is no evidence that applicants under the original NP-5 program did not have, or experienced any difficulty in obtaining, appropriate travel documents. Accordingly, the Department concludes that section 203 is not applicable, or relevant, to the processing of applicants under section 132.

The Department, therefore, will treat the references to sections 212(a)(5)(B) and (7)(A) in section 132(e) as drafting errors not requiring implementation.

Miscellaneous

The Department wishes to take this occasion to point out several related items which will be of public interest. First, it will be noted that the Department does not propose to establish a limit of one application per alien. Those who are familiar with the original NP-5 program will recall that no such limit was imposed in that program either. The language of section 132 closely resembles that of section 314 of Public Law 99-603. Moreover, section 133 of Public Law 101-649, which

establishes a diverse immigration program to begin in the year following the last year of this program, explicitly limits applications to one per alien. For these reasons, the Department does not find a basis for imposing such a limit in this program.

Next, the Department wishes to explain how it envisions that incoming mail will be processed. The Department contemplates that it will rent a post office box, as was done for the NP-5 program. The Department believes that the United States Postal Service still has procedures for handling high volumes of mail, identical with those which existed in 1987, or closely similar to them. Under those procedures, incoming mail for the postal address was sorted into boxes containing about 500 pieces of mail each. The boxes, in turn, were loaded onto metal racks and delivered to representatives of the contractor who handled the registration process. Each rack was labelled sequentially to indicate its order of delivery and transported to the office space used by the contractor for the purpose.

Once the racks had reached the contractor's work space, employees of the contractor opened the mail in chronological order of receipt from USPS and entered into a computer programmed for the purpose the identifying information from the applications. Included in the computer program was a feature under which a twelve digit number was created for each entry. This number represented the year, month, day, hour, minute, and second at which the entry was created in the computer data base and became the alien's chronological priority date for further consideration under the program.

Once that process was completed, information concerning the registrants was sent to the visa-issuing office indicated by the applicant. Upon receipt of that information, the visa-issuing office created a record of the alien as an immigrant visa applicant and sent to the alien the appropriate letter of instructions. From that point on, the processing of the registrants followed the standard procedures for immigrant visa applicants generally.

In spite of certain logistical difficulties occasioned by the fact that the original mail-in period was in January and two major snowstorms struck the Washington area during that period, that system worked effectively and the Department believes that in general the same procedure will serve the purpose in this case as well.

There will, however, be one significant difference in the procedure. The Department has concluded that the Packet 3 letter notifying each applicant

of registration for further consideration should be sent by the Department itself rather than by the visa-issuing office at which the application will ultimately be processed. The Packet 3 letter will direct the applicant to communicate thereafter with that office and, from that point on, the processing of the applications will be exactly as was the case under the original NP-5 program.

Also, the Department wishes to remind the public that it will not be possible to respond to individual inquiries concerning possible registration. Registrants will be notified by the designated visa-issuing office through the mailing of the appropriate letter of instructions. It will not be administratively feasible to respond to inquiries directed to the Visa Office or elsewhere in the Department of State.

In addition, the Department will not be able to return applications to the sender. Those applications which are chronologically early enough to justify registration will be sent to the visa-issuing office to form part of the documentation on file there in connection with immigrant visa processing. Those pieces of mail which are never opened because their chronological order will not justify doing so will be disposed of by the Department after an appropriate period of time.

Finally, it is the Department's understanding that a successful registrant physically present in the United States will, as was the case under the NP-5 program, be able to apply for adjustment of status under section 245 of the Immigration and Nationality Act, provided he or she is in all respects eligible for adjustment of status under the generally applicable requirements under the INA.

This rule is not considered to be a major rule for purposes of E.O. 12291 nor is it expected to have a significant impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. The collection of information requirements in this rule will be submitted to OMB in accordance with the provisions of the Paperwork Reduction Act of 1980. Form OF-230, Application for Immigrant Visa and Alien Registration, which will be eventually used by the applicants benefiting by this rule, is pending review by OMB. (See FR 56, 22190.)

List of Subject in 22 CFR Part 43

Aliens, Adversely affected country, Immigrants, Numerical limitations.

Proposed Regulations

In view of the foregoing, title 22 of the Code of Federal Regulations, subchapter

E-VISAS, part 43 would be amended to read as follows:

PART 43—[AMENDED]

1. The authority citation for part 43 would be revised to read as follows:

Authority: Sec. 104, 66 Stat. 174, 8 U.S.C. 1104; Sec. 109(b)(1), 91 Stat. 847; Sec. 132, 104 Stat. 5000, 8 U.S.C. 1153 note.

2. The Title to part 43 would be revised and new Subpart A heading would be added above § 43.1 to read as follows:

PART 43—VISAS: DOCUMENTATION OF IMMIGRANTS

Subpart A—Documentation of Immigrants Under Section 314 of (Pub. L. 99-603)

* * * * *

3. New subpart B would be added to read as follows:

Subpart B—Documentation of Immigrants Under Section 132 of (Pub. L. 101-649)

Sec.

- 43.11 General.
- 43.12 Definitions.
- 43.13 Registration.
- 43.14 Order of consideration.
- 43.15 Control of numerical limitation.
- 43.16 Fees

Subpart B—Documentation of Immigrants Under Section 132 of Public Law 101-649

§ 43.11 General.

Except as specifically provided in this subpart, the provisions of the Immigration and Nationality Act, as amended, and of parts 40 and 42 of this chapter shall apply to application for, consideration of, and issuance of refusal of, immigrant visas under section 132 of Public Law 101-649.

§ 40.12 Definitions.

The following definitions shall be applicable to this Part:

(a) *Adversely affected foreign state* shall have the meaning ascribed to the term "adversely affected country" in § 43.2 of Subpart A of this Part;

(b) A *firm commitment for employment in the United States for a period of at least one year* shall mean an offer of employment from an employer in the United States which specifies that the place of employment is within the United States and which does not, by its terms, limit the duration of the offered employment to a period of less than one year;

(c) *Native* shall mean born within the territory of a foreign state, or entitled to be charged for immigration purposes to that foreign state pursuant to section

202(b) of the Immigration and Nationality Act, as amended.

§ 43.13 Registration.

(a) *Limitations on registration.* An alien shall not be eligible to register under this section unless he or she is a native of an adversely affected foreign state (as defined in § 43.12 of this subpart) other than Canada. Applications for registration shall be made separately for each of the Fiscal Years 1992, 1993, and 1994, during application periods established by the Department for such purpose. An application for registration submitted during the application period for a fiscal year shall not be retained for consideration with respect to any fiscal year other than the one for which it was submitted. The dates of each application period held pursuant to this section shall be announced by the Department of State by publishing a Public Notice in the *Federal Register* and through such other means as will ensure wide dissemination of the information, both within the United States and elsewhere. Applications for registration will be accepted only between 12:01 a.m. on the first day of the application period and Midnight of the last day of the application period. Applications received at any other time will not be considered.

(b) *Place of registration.* An alien eligible to register pursuant to paragraph (a) of this section who desires to register as an application for a visa under section 132 of Pub. L. 101-649 shall apply for registration by mail. The address to which such applications shall be submitted shall be included in the announcement of the application period provided for in paragraph (a) of this section. Hand-delivered applications, telegrams, or envelopes sent by any means requiring any form of acknowledgement of receipt by the recipient will not be accepted. Only one application may be submitted in each envelope and, if an envelope contains two or more applications, only the first application removed from the envelope will be accepted and processed.

(c) *Application.*—(1) *Form of application.* An application for registration under this section shall consist of—

(i) A sheet of paper on which shall be typed or legibly printed in the Roman alphabet the applicant's name, place of birth (including city and county, province or other political subdivision, and country), name(s), date(s) and place(s) of birth of spouse and child(ren), if any, a current mailing address, and location of consular office nearest to current residence or, if in the

United States, nearest to last foreign residence prior to entry into the U.S.; and

(ii) A firm commitment for employment in the United States for at least one year (beginning on the date of admission for permanent resident).

(2) *Marking of mailing envelope.* An alien who submits an application as provided in this Subpart shall type or print legibly in the Roman alphabet the name of the adversely affected country of which he or she is a native on the upper lefthand corner of the front of the envelope in which the application is mailed.

(d) *Derivative registration.* An application for registration submitted in accordance with paragraphs (a) and (b) of this section shall be considered to include automatically the spouse or child of the applicant, whether or not such spouse or child is named in the application if, in the case of a spouse, the marriage to the applicant took place prior to the applicant's admission for permanent residence or, in the case of a child, the child is the issue of a marriage which took place prior to the applicant's admission to the United States for permanent residence.

(e) *Priority date.* An alien's priority date for consideration of his or her application under this subpart shall be the date, hour, minute, and second (within the application periods provided for in paragraph (a) of this section) of the receipt and processing of the application by the Visa Office of the Department of State.

(f) *Waiting lists.* The Department shall establish two waiting lists of applicants whose applications have been received and processed for consideration under this subpart. Both lists shall be maintained in the chronological order of priority dates established as provided in paragraph (e) of this section. One list shall consist of applicants who are natives of Ireland. The other list shall consist of all applicants who are natives of adversely affected foreign states.

§ 43.14 Order of consideration.

(a) *Registration.* Applicants shall be registered for further consideration under this Subpart in the chronological order in which their applications are received from the United States Postal Service mail-handling facility. Applicants shall be registered only in a number sufficient to ensure usage of all immigrant visa numbers available during the fiscal year for which the application period is held and to ensure that not fewer than 40 percent of such visa numbers are made available to natives of Ireland.

(b) *Further processing.* The Department shall inform applicants registered pursuant to paragraph (a) of this section of the steps necessary to meet the requirements of INA 222(b) in order to apply formally for an immigrant visa.

§ 43.15 Control of numerical limitation.

(a) *Centralized control.* Centralized control of the numerical limitation specified in section 132(a) of Public Law 101-649 is established in the Department. In order to effect this control, the Department shall limit the number of immigrant visas and the number of adjustments of status that may be granted to aliens applying under section 132 of Pub. L. 101-649 to a number

(1) Not to exceed 40,000 each in fiscal year 1992, 1993, or 1994 and

(2) Not to exceed, in any month of any such fiscal year, 4,000 plus any balance remaining from authorizations for preceding months in the same fiscal year.

(b) *Allocation of immigrant visa numbers.* Within the limitations specified in paragraph (a) of this section, the Department shall allocate immigrant visa numbers for use in connection with the issuance of immigrant visas and the granting of adjustment of status. Such allocation shall be based upon the chronological order of priority dates of applicants as established pursuant to § 43.13(e) of this subpart, except that allocations shall be made in such a manner as to ensure that, to the extent natives of Ireland have become documentarily qualified, not less than 40 percent of the visa numbers allocated during any fiscal year are allocated to natives of Ireland. To the extent that allocations of visa numbers to natives of Ireland must be made separately to ensure compliance with the requirement that at least 40 percent of the total be allocated to such aliens, such allocations shall also be made to such aliens in the chronological order of their priority dates.

§ 43.16 Fees.

(a) *Applicant for immigrant visa.* An applicant who is registered for immigrant visa processing pursuant to § 43.23 of this subpart, who receives from the Department notification of the steps necessary to apply formally for an immigrant visa, and who will apply for an immigrant visa shall remit a fee of \$20 (or its equivalent in the currency of the country in which such consular office is located) to the consular office at which the formal immigrant visa application will be made. The fee shall

be \$20 regardless of whether or not the applicant has a spouse and/or child(ren) who intend to accompany or follow to join the applicant. The remittance shall be negotiable in such form as the Department shall specify and shall be remitted to the consular office with the completed Form OF-179, Biographic Data for Visa Purposes. Consular officers shall give no further consideration to an application under this Subpart until the fee specified herein has been received.

(b) *Applicant for adjustment of status.* An applicant who is registered for immigrant visa processing pursuant to § 43.13 of this subpart and who receives notification of the steps necessary to apply formally for an immigrant visa, but intends to apply to the Immigration and Naturalization Service for adjustment of status under section 245 of the Immigration and Nationality Act, shall nonetheless complete and return Form OF-179, together with the required fee of \$20, as provided in paragraph (a) of this section. The applicant shall also inform the consular officer that he or she intends to apply for adjustment of status rather than for an immigrant visa.

Dated: April 23, 1991.

James Ward,
Acting, Assistant Secretary for Consular Affairs.

[FR Doc. 91-12920 Filed 6-3-91; 8:45 am]

BILLING CODE 4710-06-M

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

23 CFR Part 650

[FHWA Docket No. 91-13]

RIN 2125-AC

Highway Bridge Replacement and Rehabilitation Program

AGENCY: Federal Highway Administration, DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: The FHWA is requesting comments on proposed revisions to its procedures for evaluating existing highway bridges for eligibility under the Highway Bridge Replacement and Rehabilitation Program (HBRRP). The proposed procedures would replace the evaluation method described in 23 CFR 650.409 which is based on a Sufficiency Rating formula. The FHWA proposes to discontinue using the Sufficiency Rating to evaluate the need to replace or rehabilitate bridges and to implement level-of-service criteria for this purpose. The primary reason for the change is to

lessen the changes for inequities in the apportionment of HBRRP funds by improving the objectivity of the evaluation process. The proposed level-of-service criteria evaluates the need to replace or rehabilitate a bridge based on its load capacity, clear deck width, vertical overclearance and vertical underclearance. The criteria varies with traffic volume and functional classification of the highway. The criteria differ from the Sufficiency Rating in that less emphasis is placed on subjective condition and appraisal ratings. The basis of the level-of-service evaluation will be structural, geometric and inventory information contained in the National Bridge Inventory (NBI). Bridges that do not provide the specified level-of-service will be included in calculations for apportioning HBRRP funds under 23 U.S.C. 144.

DATES: Comments must be submitted on or before August 5, 1991.

ADDRESSES: Submit written, signed comments to FHWA Docket No. 91-13, Federal Highway Administration, Office of the Chief Counsel, room 4232, HCC-10, 400 Seventh Street SW., Washington, DC 20590. All comments received will be available for examination at the above address between 8:30 a.m. and 3:30 p.m., e.t., Monday through Friday, except legal holidays. Those desiring notification of receipt of comments must include a self-addressed, stamped postcard.

FOR FURTHER INFORMATION CONTACT:

Mr. Daniel S. O'Connor, Bridge Management Branch, Bridge Division, Office of Engineering, (202) 366-1567; or Ms. Vivian Philbin, Office of Chief Counsel, (202) 366-0780, Federal Highway Administration, 400 7th Street SW., Washington, DC 20590. Office hours are from 7:45 a.m. to 4:15 p.m., e.t., Monday through Friday, except legal holidays.

SUPPLEMENTARY INFORMATION: In 1978, Congress established the HBRRP under section 144 of title 23, U.S.C. This program provides funds for the replacement and rehabilitation of bridges on all public roads. Funding for the HBRRP has been authorized in several successive highway acts. The most recent authorization was \$8.15 billion for fiscal years 1987 through 1991. About 3,000 bridges are replaced or rehabilitated each year under the HBRRP program.

Section 144 of title 23, U.S.C., directs the Secretary, in consultation with the States, to (1) inventory all highway bridges on public roads, (2) classify them according to serviceability, safety and essentiality for public use, (3) based on the classification, assign each a

priority for replacement or rehabilitation and (4) determine the cost of replacing each such bridge with a comparable facility or of rehabilitating such bridge. Section 144 further directs the Secretary to determine the eligibility of highway bridges for replacement or rehabilitation based upon the unsafe highway bridges in each State, and to give consideration to those projects which will remove from service those bridges most in danger of failure.

Since the early 1970's, the FHWA has employed a needs index known as the Sufficiency Rating to classify bridges according to their safety, serviceability and essentiality for public use. This Sufficiency Rating together with a "deficient bridge definition" are currently used to establish funding eligibility under the HBRRP.

The deficient bridge definition uses NBI condition and appraisal ratings to determine whether a bridge is deficient. Bridges classified as deficient are further subdivided as either "structurally deficient" or "functionally obsolete". Bridges classified as structurally deficient are excluded from the functionally obsolete category to avoid duplicate counting. Only the bridges classified as deficient are considered for HBRRP funding.

The Sufficiency Rating rates a bridge on a scale of 0 to 100 using a relatively complicated empirical formula which assigns points on the basis of 17 separate NBI items. The most heavily weighted items are superstructure or substructure condition and inventory rating (combined total of 55 points is possible), lane width (15 points possible), and average daily traffic times detour distance (15 points possible). Being a sufficiency rating, deficiency points are subtracted from 100 to give sufficiency. Thus, a rating of 100 represents an entirely sufficient bridge. The current eligibility criteria specifies that deficient bridges having Sufficiency Ratings of less than or equal to 80 are eligible for rehabilitation, and those bridges with Sufficiency Ratings of less than 50 are eligible for replacement (or rehabilitation). Bridges with Sufficiency Ratings above 80 are not eligible.

The proposed modification of 23 CFR 650.409 retains the Sufficiency Rating as an index for classifying bridges in accordance with 23 U.S.C. 144. However, the Sufficiency Rating will no longer determine HBRRP eligibility. Instead, a level-of-service approach is proposed which evaluates the need to replace or rehabilitate a bridge based on four main bridge characteristics: Load capacity, clear deck width, vertical

overclearance, and vertical underclearance.

The proposal to discontinue the use of the Sufficiency Rating and adopt a level-of-service approach for apportioning HBRRP funds stems from a recognition of several shortcomings in the current procedures. These are:

1. Current procedures establish eligibility primarily on the basis of bridge condition and appraisal ratings, which are not necessarily uniform from State-to-State. The NBI Coding Guide¹ provides general guidance for appraising and rating bridge conditions, however, this guidance must be interpreted when rating specific bridge components or conditions. Consequently, the ratings can be affected by State practices as well as the judgments of individual bridge inspectors. Revisions to the NBI Coding Guide in 1988 removed the subjectivity from appraisal ratings for NBI Items 67 (Structural Evaluation), 68 (Deck Geometry), and 69 (Vertical and Horizontal Underclearances), by basing their values on other NBI items. However, condition ratings remain highly subjective. The level-of-service approach should lessen the chances for inequities in the apportionment of HBRRP funds by basing evaluations on bridge characteristics that can be determined directly through measurement or analysis, thereby reducing the subjectivity of the evaluation process. The level-of-service approach should also simplify and streamline the apportionment process by reducing or eliminating fluctuations in apportionment factors.

2. Current eligibility rules are insensitive to the traffic needs of the various highway systems. Because of this, there is concern that current eligibility rules are inadequate to screen bridges that do not need improvement. The concern is mainly with bridges that show up on the deficiency list because they have narrow width or low load capacity. The current rules do not consider that some of these bridges may be located on low volume local roads where service criteria can be lower.

The Sufficiency Rating formula is not sensitive to traffic volume or detour distance, nor does it consider the highway system on which the bridge is located. Thus, the identical bridge could have nearly the same Sufficiency Rating, whether located on a heavily travelled

main highway or a lightly travelled local road.

In its report of May 1988, the General Accounting Office (GAO)² questioned the adequacy of the current apportionment formula to equitably distribute funds among the States to meet current bridge needs. The GAO maintains the FHWA's criteria of what constitutes a deficient bridge are too broad to assure that bridges that do not require rehabilitation or replacement are excluded from the apportionment base.

3. Current procedures use terminology such as "Structurally Deficient" for reporting bridge needs under the HBRRP. The public and the media in particular have tended to equate the FHWA term "deficient" with unsafe, which is not the case. The proposed revisions eliminate this and similar terminology from the evaluation criteria.

The level-of-service concept is based on the fact that the Nation's highway system serves a variety of traffic. Interstate highways, for example, usually carry the most cars and the heaviest trucks, and are, therefore, expected to have the strongest pavements and bridges, the widest lanes, and the highest clearances for large vehicles to pass under. By contrast, local roads carry fewer vehicles and typically smaller and lighter trucks. Because of lighter and smaller loads, the pavements and bridges on these roads usually do not need the same strength, lane width, and clearance as those on the Interstate highways.

To apply level-of-service criteria, it is first necessary to logically group bridges in terms of their function within the highway network. Proposed criteria will adopt a hierarchical classification system which has been established by the American Association of State Highway and Transportation Officials (AASHTO).³ Under this system, highways are grouped into functional classes, where each class is distinguished by the type of service it provides. The hierarchy of the functional systems consists of principal arterials (for main movement), minor arterials (distributors), collectors, and local roads

and streets. The characteristics of these systems differ for urban and rural areas. Functional class designations have been used by many highway agencies in constructing their administrators and design policies.

The FHWA is proposing to establish level-of-service criteria for load capacity, deck width, vertical overclearance and vertical underclearance which vary with highway functional class and traffic volume. Bridge condition ratings are purposefully omitted from the criteria because of their subjective nature. These ratings frequently merely reflect the bridge's state of maintenance, not its present structural adequacy and safety. Poor condition affecting structural adequacy and safety should be reflected in the bridge's load rating. Other factors affecting bridge improvement decisions, such as approach roadway alignment and waterway adequacy, normally occur in combination with other characteristics and will rarely be a sole determining factor in rehabilitative or replacement decisions.

It is emphasized that the proposed level-of-service criteria are not in any sense design standards. Nor are they necessarily acceptable criteria for basing replacement or rehabilitation decisions for a particular bridge or group of bridges. Rather, these criteria are intended to determine relative bridge needs throughout the States through an objective screening process which determines those bridges that are the most restrictive in terms of their capacity and the least capable of providing for safe and efficient highway transportation.

Adoption of a level-of-service approach will mean that FHWA will no longer specify the type of improvement for which a bridge is eligible. Rather, the determination to replace or rehabilitate will be made by the State either through its bridge management system or by other means that consider the relevant engineering and economic factors. For purposes of apportioning funds, however, an improvement type will be assigned based on the bridge's design load, current load rating, structure type, and condition.

Load Capacity

Each bridge in the NBI is rated at two load levels, which are defined by AASHTO.⁴ The first or upper load level

¹ *Recording and Coding Guide for the Structure Inventory and Appraisal of the Nation's Bridges*, U.S. Department of Transportation, Federal Highway Administration, Office of Engineering, Bridge Division. Report No. FHWA-ED-89-044, December 1988. Available for inspection and copying as prescribed in 49 CFR part 7 appendix D; a copy is in the FHWA public docket files.

² *Bridge Condition Assessment, Inaccurate Data May Cause Inequities in the Apportionment of Federal-aid Funds*, U.S. General Accounting Office. Report No. GAO/RCED-88-75, May 1988 (U.S. Government Printing Office: Washington, DC, 1988). Available for inspection and copying as prescribed in 49 CFR part 7 appendix D; a copy is in the FHWA public docket files.

³ *A Policy on Geometric Design of Highways and Streets*, American Association of State Highway and Transportation Officials. (Washington, DC, 1984). Available for inspection and copying as prescribed in 49 CFR part 7 appendix D; a copy is in the FHWA public docket files.

⁴ *Manual for Maintenance Inspection of Bridges*, American Association of State Highway Officials. (Washington, DC, 1983). Available for inspection and copying as prescribed in 49 CFR part 7 appendix D; a copy is in the FHWA docket files.

is referred to as the operating rating. The operating rating will result in the absolute maximum permissible load level to which the structure may be subjected. Special permits for heavier than normal vehicles may be issued only if such loads are distributed so as not to exceed the structural capacity determined by the operating rating. At the second or lower load level, the capacity rating is referred to as the inventory rating. The inventory rating will result in a road level that can safely use an existing structure for an indefinite period of time.

Proposed level-of-service criteria for load capacity are given in terms of an HS operating rating for all highway functional classifications. An HS operating rating is the weight in tons of an HS truck that produces operating load levels. The operating rating was selected in lieu of the inventory rating in an attempt to minimize the affects of different load rating practices among the States. Most States are using both load factor and working stress methods to rate bridges but there is no uniformity among States as to when and where a particular rating method is used. Since load factor rating methods generally result in higher ratings, a State that uses predominantly load factor methods may be at a slight disadvantage. However, the difference between a rating obtained by load factor methods and one obtained by working stress methods is much less pronounced at the operating stress level than at the inventory stress level.

Proposed level-of-service criteria for load capacity are given in table 1. At the highest level, interstate highways, a 45 ton (HS-25) operating rating is selected. Bridges meeting this level-of-service will accommodate legal loads at a stress level well below the operating rating. The high frequency of loads at or near the legal maximum requires this lower allowable stress as compared to highways carrying fewer trucks. The 45 ton operating rating will make most bridges on the Interstate that were designed for H-15 eligible for replacement.

At the lowest service level which is for local roads, the intent is to provide sufficient capacity to accommodate legal loads at the operating rating. A capacity of 30 tons was chosen since this is approximately the HS equivalent of the AASHTO vehicles (type 3, 3-S2 and 3-3). Bridges meeting this minimum level-of-service should in general not require posting.

TABLE 1.—LEVEL-OF-SERVICE LOAD CAPACITY

Functional class	Operating rating
Interstate Highways.....	45 tons (HS-25).
Rural and Urban Principal Arterials.....	40 tons (HS-22).
Rural and Urban Minor Arterials.....	40 tons (HS-22).
Rural Major Collectors.....	36 tons (HS-20).
Urban Collectors.....	36 tons (HS-20).
Rural Minor Collectors.....	33 tons (HS-18).
Rural and Urban Local.....	30 tons (HS-17).

If the operating rating of a bridge is less than the level-of-service, the bridge is eligible for HBRRP funding. The type of improvement assumed for apportionment—replacement or rehabilitation—is determined by its design capacity and current condition. If the design capacity is capable of providing the specified level-of-service and the bridge is in at least satisfactory condition (condition rating of 6 or better for both superstructure and substructure), the bridge is considered to need rehabilitation only. However, if the design capacity does not provide the specified level-of-service or the superstructure or substructure is in less than satisfactory condition (rated 5 or less), the bridge is considered to require replacement.

The rationale for the above criteria is that insufficient design capacity will usually justify a bridge replacement. Bridge strengthening beyond the original design capacity is seldom done except in special circumstances where maintenance of traffic is a major concern. On the other hand, if the original design load is adequate, restoration of the load capacity should be possible in most cases if the basic structure is in sound condition.

A drawback of the operating rating for purposes of comparing States' needs is that the ratings reported have not always been reliable. Examination of NBI data shows a substantial percentage of the records have inconsistencies between operating and inventory ratings which make the ratings suspect. In some cases, the operating rating and the inventory rating are the same. In other cases, the ratio of operating rating to inventory rating appears to be a constant such as (75/55). These operating ratings would not be appropriate to use in a nationwide criteria unless they are screened, since using them would place some States at a disadvantage. The options are to either not use the records or to retain them and provide a surrogate for the operating rating. The latter option is proposed due to the large number of bridges that

would be eliminated from consideration if inaccurate records are not used.

A procedure has been developed to screen reported inventory and operating ratings for "reasonableness" and to compute surrogate ratings, if necessary, for purposes of apportioning funds. However, the FHWA will continue its policy of not altering the actual data reported to the NBI by the States.

Inventory ratings are screened through a comparison with the design load, considering the condition of the bridge. The objective is to eliminate bridges that have adequate design capacity and are structurally sound but fail to meet the level-of-service for capacity because of a localized structural problem. The test is: If the inventory rating is less than the design load, a condition rating of 5 or less for either superstructure or substructure should be expected. Otherwise, the design load is substituted for the inventory rating.

The procedure for screening operating ratings and computing surrogate ratings is based on ratio of operating rating to the inventory rating. This ratio, termed OR/IR, is compared with a threshold value to determine whether the ratio is reasonable. As a first step, reported operating ratings and inventory ratings are converted to their HS equivalents. The HS equivalent of the rating vehicle is assumed as the weight of an HS truck that produces the same moment as the rating vehicle. Next, an initial screen checks if OR/IR is approximately 5/3, the expected value if the bridge has been rated by load factor methods. If this test passes, the bridge is assumed to be rated by load factor methods, and the operating rating is used without adjustment. If this test does not pass, working stress methods are assumed and further checking is made as follows:

Steel and Reinforced Concrete

If OR/IR is less than the value computed by the following formula, a surrogate rating is computed.

$$(a) \text{ OR/IR} = k (R_m) (R_s - 1) + R_s$$

where:

$$k = 0.75$$

R_m = Ratio of dead load moment to live load moment plus impact for a simple span. R_m is estimated for NBI bridge types 101, 102, 104, 204, 105, 205, 302, 402. For all other types, $R_m = 0$.

R_s = Ratio of allowable stress at operating to the allowable stress at inventory. R_s is assumed to be 1.36 for steel and 1.4 for reinforced concrete.

For continuous spans, R_m is taken as 0.52 times the estimated value for a

simple span. If it is necessary to calculate a surrogate rating, the above formula (a) is used with $k=1$.

Prestressed Concrete

If OR/IR is less than 1.5, a surrogate operating rating is calculated based on a ratio of 5/3.

Timber

If OR/IR is less than 1.25, a surrogate operating rating is calculated based on a ratio of 1.33.

Other Material

If OR/IR is less than 1.25, a surrogate operating rating is calculated based on a ratio of 1.25.

Clear Deck Width

Proposed level-of-service criteria for bridges greater than 200 feet in overall length are given in table 2. The minimums are derived from guidance given in the AASHTO's A Policy on Geometric Design of Highways and Streets. For bridges 200 feet or less in overall length (Table 3) the proposed level-of-service is nine-tenths of the approach roadway width an upper limit

of $(11 \times \text{number of lanes}) + 8$ for Interstate and Principal Arterial highways, and $(11 \times \text{number of lanes}) + 6$ for other highways that have a current average daily traffic above 750. The nine-tenths factor is intended to exclude bridges that are not significantly narrower than the approach roadway. Further, a bridge of any length is not eligible based on width if the approach roadway is less than the applicable table 2 value. This exclusion is intended to screen projects where bridge widening is unlikely or impractical due to the narrowness of the approach roadway.

TABLE 2.—LEVEL-OF-SERVICE, CLEAR DECK WIDTH

[Bridges longer than 200 feet in overall length]

Functional class	Average daily traffic	Lane width (feet)	Shoulder width (feet)
Two or More Lanes:			
Interstate and other freeways and expressways.....	All.....	11	3
Arterials.....	Less than 401.....	10	2
	401 to 1,000.....	11	2
	more than 1,000.....	11	3
Collectors.....	less than 2,001.....	10	1
	2,001 to 4,000.....	11	1
	more than 4,000.....	11	3
Local roads and streets.....	less than 251.....	10	0
	251 to 2,000.....	10	1
	2,001 to 4,000.....	11	1
	more than 4,000.....	11	3

TABLE 3.—LEVEL-OF-SERVICE, CLEAR DECK WIDTH

[Bridges 200 feet or less in overall length]

Functional class	Average daily traffic	Width curb-to-curb (feet)
Two or more lanes:		
Interstate and rural and urban principal arterials.....	All.....	Approach Roadway Width \times 0.9 Max: $(11 \times \text{Number of Lanes}) + 8$ Min: Use criteria for bridges longer than 200 feet.
All other classes.....	750 or less.....	Use criteria for bridges longer than 200 feet.
	more than 750.....	Approach Roadway Width \times 0.9 Max: $(11 \times \text{Number of Lanes}) + 6$ Min: Use criteria for bridges longer than 200 feet.

TABLE 4.—LEVEL-OF-SERVICE, CLEAR DECK WIDTH

(One Lane Bridges)

Functional class	Average daily traffic	Width curb-to-curb (feet)
One way traffic.	All.....	16
Two way traffic.	100 or less.....	16
	more than 100	Use criteria for two lanes

Once eligibility is established, the type of improvement assumed for apportionment—rehabilitation or replacement—is determined by bridge type and condition. If the bridge is a type that is amenable to widening (last two digits of NBI item 43 are in range of 1 through 8), and is in at least satisfactory condition (a rating 6 or better for both superstructure and substructure), the bridge is considered to need rehabilitation only. If the bridge type is not amenable to widening (last two digits of NBI item 43 are in the range of 9 through 19), or the superstructure or substructure is in less than satisfactory condition (rating of 5 or less), the bridge is considered to require replacement.

Vertical Overclearance and Underclearance

The level-of-service for both vertical overclearance and vertical underclearance (table 5) is set at 14 feet 3 inches for all functional classes with one exception. No minimum vertical clearances are specified for highways functionally classified as local if the average daily traffic is less than 50 and the detour distance is less than 5 miles. The 14 feet 3 inches value is based on the clearance necessary to accommodate legal height vehicles (assumed not to exceed 14.0 feet) plus 3 inches tolerance. Clearance requirements greater than 14 feet 3 inches—such as on the defense network—may need to be accommodated if a bridge is improved for other reasons. However, providing clearances in excess of 14 feet 3 inches should not be an HBRRP cost, unless the bridge is eligible for HBRRP funds for other reasons.

Level-of-Service Vertical Overclearance and Underclearance

TABLE 5

Functional class	Average daily traffic	Detour distance	Vertical overclearance and underclearance
All except Local.	All.....	All	14 feet 3 inches.
Local.....	less than 50.	less than 5....	no set minimum.
	50 or more....	5 or more.....	14 feet 3 inches.

Since the measures that might be required to correct inadequate vertical clearance cannot usually be determined from the NBI, no attempt is made to distinguish between rehabilitation and replacement eligibility for vertical clearance. Replacement is assumed in all cases. Thus, replacement square foot costs are used for apportioning funds.

Rulemaking Analyses and Notices Executive Order 12291 (Federal Regulation) and Dot Regulatory Policies and Procedures

The FHWA has determined that this document does not contain a major rule under Executive Order 12291 or a significant regulation under regulatory policies and procedures of the Department of Transportation. It is anticipated that the economic impact of this rulemaking will be minimal. Therefore, a full regulatory evaluation is not required.

Regulatory Flexibility Act

In compliance with the Regulatory Flexibility Act (Pub. L. 96-354), the agency has evaluated the effects of this rule on small entities. Based on the evaluation, the FHWA certifies that this rule would not have a significant economic impact on a substantial number of small entities.

Executive Order 12612 (Federalism Assessment)

This action has been analyzed in accordance with the principles and criteria contained in Executive Order 12612, and it has been determined that the final rule does not have sufficient federalism implications to warrant the preparation of a federalism assessment.

Executive Order 12372 (Intergovernmental Review)

Catalog of Federal and Domestic Assistance Program Number 20.205, Highway Planning and Construction. The regulations implementing Executive Order 12372 regarding

intergovernmental consultation on Federal programs and activities apply to this program.

Paperwork Reduction Act

This rule does not contain a collection of information requirement for purposes of the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.*

National Environmental Policy Act

The agency has analyzed this section for the purpose of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*) and has determined that this action would not have any effect on the quality of the environment. In consideration of the foregoing, the FHWA proposes to amend 23 CFR 650 by revising 650.403, 650.405 and 650.409 as set forth below.

Regulation Identification Number

A regulation identifier number (RIN) is assigned to each regulatory action listed in the Unified Agenda of Federal Regulations. The Regulatory Information Services Center publishes the Unified Agenda in April and October of each year. The RIN number contained in the heading of this document can be used to cross reference this action with the Unified Agenda.

List of Subjects in 23 CFR Part 650

Bridges, Highways and roads, Grant programs—transportation, reporting and recordkeeping requirements.

Issued on: May 24, 1991.

T. D. Larson,

FHWA Administrator.

In consideration of the foregoing, the FHWA proposes to amend 23 CFR part 650 by amending 650.403, 650.405, and 650.409 as set forth below.

PART 650—BRIDGES, STRUCTURES, AND HYDRAULICS

Subpart C—Highway Bridge Replacement and Rehabilitation Program [Amended]

1. The authority citation for 23 CFR part 650 continues to read as follows:

Authority: 23 U.S.C. 109 (a) and (h), 144, 151, 315, and 319; 23 CFR 1.32; 49 CFR 1.48(b); E.O. 11988, Floodplain Management, May 24, 1977 (42 FR 26951); Department of Transportation Order 5850.2 dated April 23, 1979 (44 FR 24678); Sec. 161 of Pub. L. 97-424, 98 Stat. 2097, 3135; Pub. L. 97-134, 95 Stat. 1699; and 33 U.S.C. 401-491 *et seq.*, 511 *et seq.*

2. Section 650.403 is amended by adding paragraph (d) to read as follows:

§ 650.403 Definition of terms.

* * * * *

(d) *Level-of-service.* A criterion for assessing the adequacy of a bridge to serve traffic based on the highway system, expected traffic loads, and other site specific factors.

3. Section 650.405 is amended by revising paragraph (a) to read as follows:

§ 650.405 Eligible projects.

(a) *General.* Highway bridges on all public roads that do not meet the minimum level-of-service may be eligible for replacement or rehabilitation.

* * *

4. Section 650.409 is revised to read as follows:

§ 650.409 Evaluation of bridges for inclusion in State programs.

(a) Upon receipt of the bridge inventory, each bridge will be evaluated in accordance with level-of-service criteria and a Sufficiency Rating will be assigned to each bridge in accordance with the approved AASHTO⁵ Sufficiency Rating formula. The level-of-service criteria will be used as a basis for establishing eligibility. The Sufficiency Rating will be used to establish priority for replacement or rehabilitation of bridges; in general the lower the rating, the higher the priority.

(b) After evaluation of the inventory in accordance with paragraph (a) of this section, the Secretary will provide the State with a list of bridges within the State that are eligible for the bridge program. The State may select projects from that list or from any previous lists that were furnished since the date of enactment of this rule. The State may select projects from lists furnished prior to enactment of this rule if Federal-aid funds for preliminary engineering for that project have been authorized.

[FR Doc. 91-13116 Filed 6-3-91; 8:45 am]

BILLING CODE 4910-22-M

Coast Guard

33 CFR Part 117

[CGD1 91-029]

Drawbridge Operation Regulations; Hackensack River, New Jersey, et al.

AGENCY: Coast Guard, DOT.

ACTION: Proposed rule.

SUMMARY: At the request of New Jersey Transit Rail Operation (NJTRO) and Bergen County Department of Public

Works, the Coast Guard is considering a change to the regulations governing the Lower Hackensack drawbridge, mile 3.4 at Jersey City, NJ, the Upper Hack drawbridge, mile 6.9 at Secaucus, NJ, the HX (Jackknife) drawbridge, mile 7.7 at Secaucus, NJ, and the Harold J. Dillard Memorial (Court Street) drawbridge, mile 16.2 at Hackensack, NJ all across the Hackensack River and the Newark-Harrison (Morristown Line) drawbridge across the Passaic River, mile 5.8 at Harrison, New Jersey to permit the drawbridges to be operated on an advance notice basis. NJTRO would man their bridges with a two person roving crew normally based at the Upper Hack Bridge. The NJTRO changes are being made because of the close proximity and limited openings of these bridges, as well as a desire by NJTRO to achieve more efficient utilization of manpower and provide timely openings. The Bergen County Bridge change would permit a one hour change in the manning time of the bridge and would require at least eight (8) hours advance notice at night and at all times on weekends and federal holidays. This action should relieve the bridge owners of the burden of having a person constantly available to open the draw of each bridge and should still provide for the reasonable needs of navigation.

DATES: Comments must be received on or before July 19, 1991.

ADDRESSES: Comments should be mailed to Commander (obr), First Coast Guard District, Bldg. 135A, Governors Island, NY 10004-5073. The comments and other materials referenced in this notice will be available for inspection and copying at this address. Normal office hours are between 8 a.m. and 4:30 p.m., Monday through Friday, except federal holidays. Comments may also be hand-delivered to this address.

FOR FURTHER INFORMATION CONTACT:

William C. Heming, Bridge Administrator, First Coast Guard District, at (212) 688-7170.

SUPPLEMENTARY INFORMATION:

Interested persons are invited to participate in this proposed rulemaking by submitting written views, comments, data or arguments. Persons submitting comments should include their names and addresses, identify the bridge(s), and give reasons for concurrence with or any recommended change in the proposal. Persons desiring acknowledgment that their comments have been received should enclose a stamped, self-addressed postcard or envelope.

The Commander, First Coast Guard District, will evaluate all communications received and determine

a course of final action on this proposal. The proposed regulations may be changed in light of comments received.

Drafting Information

The drafters of this notice are Sylvia L. Bowens, project officer, and Lieutenant John B. Gately, project attorney.

Discussion of Proposed Regulation

NJTRO's Lower Hack drawbridge mile 3.4, the Upper Hack drawbridge mile 6.9, and the HX drawbridge mile 7.7, all across the Hackensack River, provide a vertical clearance of 40, 8, and 4 feet respectively at mean high water (MHW) and 45, 13, and 9 feet at mean low water (MLW). The Newark-Harrison (Morristown Line) drawbridge mile 5.8 over the Passaic River has a vertical clearance of 15 feet at MHW and 20 feet at MLW. Presently, all the above NJTRO bridges have personnel available 24 hours per day throughout the entire year and open on signal except Newark-Harrison which need not open during rush hours.

There has been a steady decrease in requests for openings at these bridges. The Lower Hack had 156 openings in 1987, 146 in 1988 and 130 in 1989. The Upper Hack had 1643 openings during 1987, 1507 during 1988 and 1174 during 1989. The HX bridge had 1561 openings during 1987, 1337 during 1988 and 955 during 1989. The Newark/Harrison bridge had 406 openings for 1987, 247 for 1988 and 265 for 1989. NJTRO has assured the Coast Guard that by the use of two person roving crews, they can continue to respond to the mariner's needs with minimal or no delays, providing they receive advance notice of the desired time of transit. The Upper Hack bridge will be used as the normal base of operations because this bridge has the greatest number and frequency of openings. The marine transit time will vary based on wind, current and vessel characteristics, a 5 to 6 knot speed of advance was considered appropriate. Using the above speed, the marine transit time between the Upper Hack and HX or Lower Hack would be approximately 9 and 33 minutes, respectively. Whereas, transit time by land for bridge operators from Upper Hack to HX or Lower Hack is 5 and 15 minutes, respectively. The driving time from any of the Hack bridges to the Morristown Line bridge on the Passaic is approximately 24 minutes. The use of a two person crew would permit bridge operators to be at two different bridges when necessary to expedite transits. Federal, state and local public safety vessels will be passed as soon as

⁵ American Association of State Highway and Transportation Officials, suite 225, 444 North Capitol Street, NW., Washington, DC 20001.

possible. Security measures will be enhanced at all of the bridges and the roving crews will have two specially equipped vans/trucks with marine and railroad radios, cellular telephones and repair equipment.

The Harold J. Dillard Memorial (Court Street) Bridge, mile 16.2 across the Hackensack River provides a vertical clearance of 7 feet at MHW and 12 feet at MLW. Current regulations provide that the drawbridge, shall open on signal from 8 a.m. to 12 midnight. From 12 midnight to 8 a.m., the draw opens on signal if at least eight (8) hours notice is given. The proposed regulation would advance the time period when the bridge is manned one hour and would place the bridge on eight hour advance notice at night and eight hour advance notice all day on weekends and federal holidays. The County intends to maintain an on-call rotating work shift that will cover emergency and eight hour advance notice openings.

Economic Assessment and Certification

These proposed regulations are considered to be non-major under Executive Order 12291 on Federal Regulation, and nonsignificant under the Department of Transportation regulatory policies and procedures (44 FR 11034; February 26, 1979).

The economic impact of this proposal is expected to be so minimal that a full regulatory evaluation is unnecessary. This opinion is based on the fact that the regulations will not prevent or substantially delay marine traffic, but just require advance notice to the bridge operators. Since the economic impact of this proposal is expected to be minimal, the Coast Guard certifies that if adopted, it will not have a significant economic impact on a substantial number of small entities.

Federalism Implication Assessment

This action has been analyzed under the principles and criteria in Executive Order 12612, and it has been determined that this proposed regulation does not have sufficient federalism implications to warrant preparation of a federal assessment.

List of Subjects in 33 CFR Part 117

Bridges.

Proposed Regulations

In consideration of the foregoing, the Coast Guard proposes to amend part 117 of title 33, Code of Federal Regulations as follows:

PART 117—[AMENDED]

1. The authority citation for part 117 continues to read as follows:

Authority: 33 U.S.C. 499; 49 CFR 1.46; 33 CFR 1.05–1(g).

2. Section 117.723 is revised; section 117.739 is amended to add paragraph (a)(5) and to revise paragraphs (a)(4) and (e) and appendix A to part 117 is amended to revise the Hackensack River and the Passaic River entries under the State of New Jersey to read as follows:

§ 117.723 Hackensack River.

(a) The following requirements apply to all bridges across the Hackensack River as follows:

(1) Public vessels of the United States, state or local vessels used for public safety, and vessels in distress shall be passed through the draws of each bridge as soon as possible without delay. The opening signal for these vessels is four or more short blasts of a whistle or horn or a radio request.

(2) The owners of each bridge shall provide and keep in good legible condition, clearance gauges for each draw with figures not less than 18 inches high for bridges below the turning basin at mile 4.0 and 12 inches high for bridges above mile 4.0. The gauges shall be designed, installed and maintained according to the provisions of section 118.160 of this chapter.

(3) Trains and locomotives shall be controlled so that any delay in opening the draws shall not exceed 10 minutes except as provided in paragraph (a)(1) of this section. However, if a train moving toward the bridge has crossed the home signal for the bridge before the signal requesting the opening of the bridge is given, the train may continue across the bridge and must clear the bridge interlocks before stopping or reversing.

(4) NJTRO's roving crews shall consist of two qualified operators each having a van/truck which is equipped with marine and railroad radios, cellular telephones, and emergency bridge repair and maintenance tools.

(5) Except as provided in paragraphs (b) through (h) of this section the draws shall open on signal.

(b) Except as provided in paragraph (a)(1) of this section, the draw of the NJTRO's Lower Hack Bridge, mile 3.4 at Jersey City shall open on signal if at least one hour advance notice is given to the drawtender(s) at the Upper Hack bridge, mile 6.9 at Secaucus, New Jersey. In the event the drawtender is at the HX bridge, mile 7.7 on the Hackensack River or the Newark-Harrison (Morristown Line) Bridge, mile 5.8 on the Passaic River up to an additional half hour delay may be expected.

(c) Except as provided in paragraph (a)(1) of this section, the draw of AMTRAK's Portal bridge, mile 5.0 at

Little Snake Hill, need not be opened Monday through Friday except federal holidays from 7:20 a.m. to 9:20 a.m. and from 4:30 p.m. to 6:50 p.m. At all other times, an opening may not be delayed for more than 10 minutes, unless the drawtender and the vessel operator communicating by radiotelephone, agree to a longer delay.

(d) Except as provided in paragraph (a)(1) of this section, the draw of NJTRO's Upper Hack Bridge, mile 6.9 at Secaucus, NJ shall open on signal unless the drawtender is at the Lower Hack, mile 3.4 at Jersey City, the HX bridge, mile 7.7 at Secaucus, NJ both over the Hackensack River or the Newark-Harrison (Morristown Line) Bridge, mile 5.8 on the Passaic River, then up to one hour delay may be expected.

(e) Except as provided in paragraph (a)(1) of this section, the draw of NJTRO's HX (Jackknife) Bridge, mile 7.7 at Secaucus shall open on signal if at least one hour advance notice is given to the drawtender at the Upper Hack Bridge, mile 6.9 at Secaucus. In the event the drawtender is at the Lower Hack bridge, mile 3.4 on the Hackensack River or the Newark-Harrison (Morristown Line) Bridge, mile 5.8 on the Passaic River up to an additional half hour delay may be expected.

(f) Except as provided by paragraph (a)(1) of this section, the draw of the S46 bridge mile 14.0 at Little Ferry, shall open on signal if at least six hours notice is given.

(g) The draw of the Harold J. Dillard Memorial (Court Street) bridge, mile 16.2 at Hackensack, NJ shall open on signal from 7 a.m. to 11 p.m. From 11 p.m. to 7 a.m. and at all times on weekends and federal holidays, the draw shall open on signal if at least eight hours notice is given to the drawtender or the Bergen County Police Communication Center in Hackensack, New Jersey, except as provided by paragraph (a)(1) of this section.

(h) The draw of the New York Susquehanna and Western Railroad bridge, mile 16.3 and the Midtown bridge, mile 16.5, both at Hackensack need not be opened for the passage of vessels. However, the draws shall be restored to operable condition within 12 months after notification by the District Commander.

§ 117.739 Passaic River.

(a) * * *

(4) New Jersey Transit Rail Operations' (NJTRO) roving crews shall consist of two qualified operators each having a van/truck which is equipped with marine and railroad radios, cellular

telephones, and emergency bridge repair and maintenance tools.

(5) Except as provided in paragraph (b) through (m) of this section the draws shall open on signal.

(b) * * *

(c) * * *

(d) * * *

(e) The draw of the Newark-Harrison (Morristown Line) bridge, mile 5.8 at Harrison, New Jersey shall operate as follows:

(1) Open on signal if at least one hour advance notice is given to the drawtender(s) at the Upper Hack bridge, mile 6.9 at Secaucus, NJ. In the event the drawtender is at the Lower Hack, mile

3.4 at Jersey City or the HX (Jackknife) bridge, mile 7.7 at Secaucus, NJ all over the Hackensack River, up to an additional half hour may be expected.

(2) Need not open from 7:15 a.m. to 9 a.m. and from 4:30 p.m. to 6:50 p.m. Monday through Friday except federal holidays.

* * * * *

APPENDIX A TO PART 117—DRAWBRIDGES EQUIPPED WITH RADIOTELEPHONES

Waterway	Mile	Location	Bridge name and owner	Call sign	Calling channel	Working channel
NEW JERSEY						
Hackensack River.....	3.0	Jersey City.....	PATH, PATH.....	KQ 7198.....	13	13
	3.1	Jersey City.....	Hack Freight, Conrail.....	KQ 7198.....	13	13
	3.1	Jersey City.....	Witt-Penn, NJDOT.....	Pending.....	13	13
	3.4	Jersey City.....	Laurel Hill NJTRO (lower hack).....	KX 7465.....	13	13
	5.0	Snake Hill.....	Portal, Amtrak.....	KMC 297.....	13	13
	5.4	Snake Hill.....	DB (Erie Swing), NJTRO.....	KR 6962.....	13	13
	6.9	Secaucus.....	Erie Lift, NJTRO (upper hack).....	KR 7035.....	13	13
Passaic River.....	7.7	Secaucus.....	Jackknife (HX), NJTRO.....	KR 7034.....	13	13
	2.6	Newark.....	Point-No-Point, Conrail.....	KR 6939.....	13	13
	5.0	Newark.....	Dock, Amtrak.....	WRY 593.....	13	13
	5.8	Newark.....	Morristown Line, NJTRO.....	Pending.....	13	13
	8.0	West Arlington.....	West Arlington, JNTRO.....	Pending.....	13	13
	11.7	Lyndhurst.....	Lyndhurst, NJTRO.....	KR 7041.....	13	13

Dated: May 23, 1991.

R.I. Rybacki,

Commander, First Coast Guard District.

[FR Doc. 91-13039 Filed 6-3-91; 8:45 am]

BILLING CODE 4910-14-M

DEPARTMENT OF VETERANS AFFAIRS

38 CFR Parts 3 and 13

RIN 2900-AF07

Limitation on Compensation Benefits for Certain Incompetent Veterans; Computation of Estate

AGENCY: Department of Veterans Affairs.

ACTION: Proposed rule.

SUMMARY: The Department of Veterans Affairs (VA) is proposing to amend its adjudication and fiduciary activities regulations concerning the payment of compensation benefits to or for certain incompetent veterans, and the computation of those veterans' estates. This proposed change is necessary to implement recently enacted legislation. The intended effect of this change is to prohibit the payment of compensation to incompetent veterans without dependents whose estates exceed \$25,000, and clarify the computation of the value of the estates of these incompetent veterans.

DATES: Comments must be received on or before July 5, 1991. This proposed change is to be effective November 1, 1990, the date specified in the enacting legislation. Comments will be available for public inspection until July 15, 1991.

ADDRESSES: Interested persons are invited to submit written comments, suggestions, or objections regarding this change to Secretary of Veterans Affairs (271A), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420. All written comments received will be available for public inspection only in the Veterans Services Unit, room 132, at the above address between the hours of 8 a.m. and 4:30 p.m., Monday through Friday (except holidays), until July 15, 1991.

FOR FURTHER INFORMATION CONTACT: John Bisset, Jr., Consultant, Regulations Staff, Compensation and Pension Service, Veterans Benefits Administration, (202) 233-3005.

SUPPLEMENTARY INFORMATION: Section 8001 of the Omnibus Budget Reconciliation Act of 1990, Public Law 101-508, added section 3205 to title 38, United States Code to prohibit the payment of compensation benefits to or for an incompetent veterans, having neither spouse, child, nor dependent parent, whose estate, excluding the value of the veteran's home, exceeds \$25,000 until the estate has been reduced to \$10,000. If the veteran is subsequently

rated competent for more than 90 days, the withheld compensation will be paid in a lump-sum payment; however, a lump-sum payment may not be made to or for a veteran who, within that 90 day period, dies or is again rated incompetent. These provisions expire on September 30, 1992.

Compensation payments would be terminated on the last day of the first month in which the veteran's estate exceeds \$25,000. Where compensation payments are resumed and subsequently become subject to termination again, they would be terminated on the last day of the first month in which they again became subject to termination. This is consistent with the date that payments are terminated for incompetent veterans who are hospitalized, institutionalized or domiciled by the United States under the provisions of § 3.557. VA proposes to add a new paragraph to § 3.501, and a new section, 38 CFR § 3.853, to implement this new statutory requirement.

Currently, § 13.109(d)(5) allows the value of the veteran's home to be considered as part of his or her estate when medical prognosis indicates that there is no reasonable likelihood that the veteran will again reside in the home. Consistent with the intention of the House/Senate Conference Committee (See 126 Cong. Rec. H12693

(daily ed. October 26, 1990)), VA proposes to amend § 13.109(d)(5) to exclude the value of the veteran's home from the computation of a veteran's estate for the purposes of applying 38 U.S.C. 3205.

The Secretary hereby certifies that this regulatory amendment will not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act (RFA), 5 U.S.C. 601-612. The reason for this certification is that this amendment would not directly affect any small entities. Only VA beneficiaries could be directly affected. Therefore, pursuant to 5 U.S.C. 605(b), this amendment is exempt from the initial and final regulatory flexibility analysis requirements of sections 603 and 604.

In accordance with Executive Order 12291, Federal Regulation, the Secretary has determined that this regulatory amendment is non-major for the following reasons:

(1) It will not have an annual effect on the economy of \$100 million or more.

(2) It will not cause a major increase in costs or prices.

(3) It will not have significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

The Catalog of Federal Domestic Assistance program number is 64.109.

List of Subjects

38 CFR Part 3

Administrative practice and procedure, Claims, Handicapped, Health care, Pensions, Veterans.

38 CFR Part 13

Surety bonds, Trusts and trustees, Veterans.

Approved: April 10, 1991.

Edward J. Derwinski,

Secretary of Veterans Affairs.

PART 3—[AMENDED]

38 CFR part 3, adjudication, is proposed to be amended as follows:

1. In § 3.501, new paragraph (n) is added to read as follows:

§ 3.501 Veterans.

(n) § 3.853. *Incompetents; estate over \$25,000.* Incompetent veteran receiving compensation, without spouse, child, or dependent parent, whose estate exceeds \$25,000: Last day of the first month in which the veteran's estate exceeds

\$25,000, but not earlier than November 1, 1990.

(Authority: 38 U.S.C. 3205)

2. The underdesignated center heading preceding § 3.850 is revised to read as follows:

Incompetents, Guardianship and Institutional Awards

3. After § 3.852 add a new section to read as follows:

§ 3.853 Incompetents; estate over \$25,000.

(a) Effective November 1, 1990, through September 30, 1992, where a veteran:

(1) Is rated incompetent by VA, and

(2) Has neither spouse, child, nor dependent parent, and

(3) Has an estate, excluding the value of the veteran's home, which exceeds \$25,000, further payments of compensation shall not be made until the estate is reduced to \$10,000. The value of the veteran's estate shall be computed under the provisions of § 13.109 of this chapter. Payment of compensation shall be discontinued the last day of the first month in which the veteran's estate exceeds \$25,000.

(b) Where payment of compensation has been discontinued by reason of paragraph (a) of this section, it shall not be resumed for any period prior to October 1, 1992, until VA has received evidence showing the estate has been reduced to \$10,000 or less, or any criterion of paragraphs (a) (1) or (2) of this section is no longer met. Payments shall not be made for any period prior to the date on which the estate was reduced to \$10,000 or less, or a criterion of paragraphs (a) (1) or (2) of this section was no longer met.

(c) If a veteran denied payment of compensation under paragraph (a) of this section is subsequently rated competent for more than 90 days, the withheld compensation shall be paid to the veteran in a lump-sum. However, a lump-sum payment shall not be made to or on behalf of a veteran who, within such 90-day period, dies or is again rated incompetent.

(d) The compensation payments to an incompetent veteran who is hospitalized, institutionalized, or domiciled by the United States, or any political subdivision thereof, are subject to the provisions of § 3.557 of this part.

(Authority: 38 U.S.C. 3205)

PART 13—[AMENDED]

38 CFR part 13, Fiduciary Activities, is proposed to be amended as follows:

1. Section 13.109 is amended by revising the section heading, paragraph (d)(5), and the authority citation

appearing at the end of the section to read as follows:

§ 13.109 Determination of value of estate; 38 U.S.C. 3203(b)(1)(A) and 38 U.S.C. 3205.

(d) * * *

(5)(i) For purposes of determinations under 38 U.S.C. § 3203(b)(1)(A). The value of the veteran's home unless medical prognosis indicates that there is no reasonable likelihood that the veteran will again reside in the home. It may be presumed that there is no likelihood for return when the veteran is absent from the home for a continuous period of 12 months because of the need for care, and the prognosis is void of any expectation for a return to the home.

(ii) For purposes of determinations under 38 U.S.C. § 3205. The value of the veteran's home.

(Authority: 38 U.S.C. 3205)

[FR Doc. 91-13095 Filed 6-3-91; 8:45 am]

BILLING CODE 6320-01-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Ch. 1

[CC Docket No. 90-337; FCC 91-158]

Common Carrier Services: in the Matter of Regulation of International Accounting Rates

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: On May 9, 1991, the Commission adopted a Further Notice of Proposed Rulemaking seeking comment on three additional regulation proposals focusing on: (1) International calling prices; (2) international accounting rates; and (3) international resale of U.S. provided telecommunications services. The intended effect of the proceeding is to promote lower, more economically efficient, cost-based international accounting and collection rates.

DATES: Comments must be submitted on or before August 16, 1991. Reply comments are due on or before September 27, 1991.

ADDRESSES: Federal Communications Commission, 1991 M St., NW., Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: William J. Kirsch, D. Deputy Assistant Bureau Chief—International, Common Carrier Bureau, (202) 632-3214, or Michael A. Mandigo, Attorney/Advisor,

International Policy Division, Common Carrier Bureau, (202) 632-3241.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Further Notice of Proposed Rulemaking adopted May 9, 1991, and released May 23, 1991. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M St., NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, Downtown Copy Center, (202) 452-1422, 1114 21st St., NW., Washington, DC 20036.

The following collection of information contained in this proposed rule has been submitted to the Office of Management and Budget for review under Section 3504(h) of the paperwork Reduction Act (44 U.S.C. 3504(h)). Copies of the submission may be purchased from the Commission's current copy contractor, Downtown Copy Center, (202) 452-1422, 1114 21st Street NW., Washington, DC 20036. Persons wishing to comment on this information collection should direct their comments to Jonas Neihardt, (202) 395-4814, Office of Management and Budget, room 3235 NEOB, Washington, DC 20503. A copy of any comments should also be sent to the Federal Communications Commission, Office of Managing Director, Washington, DC 20554. For further information contact Judy Boley, Federal Communications Commission (202) 632-7513.

OMB Number: 3060-0454.

Title: Regulation of International Accounting Rates (CC Docket No. 90-337—Phase II).

Action: Proposed Revision and New Collection.

Respondents: Businesses or other for profit.

Frequency of Response: On occasion and one time requirement.

Estimated Annual Burden: 10 responses; 10 hours total; 1 hour average burden per response.

NEEDS AND USES: The FNPRM proposes additional regulatory actions to reform international settlement arrangements. The FNPRM solicits public comment on, among other things, whether the Commission should continue to require only the filing of carrier operating agreements or whether to extend the filing requirement to all international private line interconnection arrangements. The FNPRM also proposes to require U.S. carriers to submit progress reports of their accounting rate negotiations with countries in Asia and Europe by January

1, 1993. The information will be used for monitoring and enforcement purposes.

Summary of Further Notice of Proposed Rulemaking

In the Further Notice the Commission concludes that it must continue its regulatory oversight of settlement arrangements for the provision of international telecommunications services and take additional steps in order to move toward lower, more economically efficient, cost-based international accounting and collection rates.

Should U.S. carriers be successful in their efforts to negotiate lower accounting rates, the Commission believes that it must be prepared to take further regulatory action. The Commission states that it does not believe that the U.S. public interest is served when the lack of progress on reducing international accounting rates prevents U.S. carriers from lowering international calling prices and results in U.S. consumers making an estimated \$1 billion overpayment for international telephone calls. Furthermore, the above-cost charges that U.S. carriers must pay to other countries to terminate U.S.-originated calls represent a substantial hindrance to achieving needed reductions.

A. International Calling Prices

The Commission observes that calling prices from the United States to a foreign country are often significantly lower than foreign calling prices to the United States. In 1988, for example, the average price for a foreign-originated telephone call to the United States, based on a limited survey, was approximately \$1.70, while the average U.S. calling price was \$1.20. The Commission also observes that U.S. international calling prices are substantially higher than U.S. domestic calling prices. In this regard, the Commission believes that it must assess whether there is a systemic problem with international calling prices, and if so, determine whether any further regulatory proposals might be necessary. In particular, the Commission is concerned that, absent international reform regarding international calling prices, U.S. consumers may not be afforded lower international calling rates for the foreseeable future. Finally, the Commission notes that the International Telecommunication Regulations impose a responsibility to try to avoid "too great a dissymetry" between the charges applicable in each direction of the same relation.

The Commission recognizes that to make an informed assessment, the

Commission needs to obtain more comprehensive and up-to-date information. As a result, the Commission directs the Common Carrier Bureau to study international calling prices and provide a report to the Commission. The Commission believes that this information will be an important part of its regulatory analysis and asks that parties assist this effort by submitting information on foreign calling prices. The could include information on either domestic calling prices or international calling prices. The Commission states that it would welcome information from individual or corporate users, even where it relates to prices in only one foreign country. The Commission also would welcome the assistance of the Executive Branch agencies that have representatives in other countries that could assist the Bureau in developing this international calling price data base. The Commission invites parties to comment on this approach and to provide any information that would assist its efforts. The Commission also invites parties to comment on what, if any, further regulatory actions the Commission should propose to reduce international calling prices, including seeking action at the international level either within the International Telegraph and Telephone Consultative Committee (CCITT) or the Organization for Economic Co-operation and Development (OECD).

B. Accounting Rates

In the Notice of Proposed Rulemaking (Notice) in this proceeding, the Commission tentatively concluded that U.S. carriers are paying charges well above cost to a large number of foreign telecommunications administrations to terminate U.S.-originated telephone calls. The Commission affirms this conclusion in the Further Notice for several reasons. First, there is little, if any, serious disagreement in the record with the Commission's assessment that U.S. IMTS accounting rates are above-cost. Second, U.S. IMTS accounting rates with Canada suggest that other developed countries may profitably terminate U.S.-originated telephone calls at rates far lower than the existing charges that U.S. carriers generally must pay to terminate U.S.-originated telephone calls elsewhere. Finally, the average U.S. IMTS accounting rate with the fifty top recipients of U.S. net settlements payments is substantially above the average weighted U.S. IMTS accounting rate.

In the Notice, the Commission also tentatively concluded that it has the

authority to establish accounting rates used by U.S. carriers. The Commission affirms this conclusion in the Further Notice based on clear support in the record that it has the authority under sections 201(a), 201(b), and 205, of the Communications Act, and relevant case law, to establish maximum rates for an entire service.

Should further regulatory action be necessary, however, the Commission believes that it will be particularly important to balance providing for "Nation-wide, and world-wide wire and radio communication service with adequate facilities" and doing so "at reasonable charges." A number of parties in this proceeding emphasize, for example, the importance of U.S. settlement payments for telecommunications infrastructure development. On the other hand, others have a concern that the U.S. ratepayer not be responsible for foreign aid simply by making an international telephone call. As a result, the Commission states that there are a "host of complex factors" involved and that there is a pressing need for better information, particularly with regard to certain regions of the world.

In an accompanying Report and Order in this docket, the Commission directed U.S. carriers to negotiate lower more cost-based accounting rates with their foreign correspondents, particularly focusing on Asia and Europe. Specifically, based on available information, the Commission stated that it believes that U.S. carriers should be paying approximately half current rates, or at most between 0.275 Special Drawing Rights (SDRs) to 0.42 SDRs (0.39-\$0.60) to terminate U.S. telephone calls in Asia and between 0.165 SDRs to 0.275 SDRs (\$0.23-\$0.39) per minute to terminate U.S. telephone calls in Europe. The Commission recognized that reliable cost information is difficult to obtain and it therefore cannot state, with certainty, that these benchmark estimates provide a definitive basis on which to make its policy judgments. Nevertheless, the Commission believes that these estimates are both reasonable and conservative.

In the Further Notice, the Commission recognizes that not all countries in Asia and Europe have the same cost characteristics and that the Commission simply does not have reliable cost information or cost surrogates for Latin America and Africa. In particular, the question of providing cost estimates for developing countries raises broader international infrastructure issues, including the need to extend service to new areas and to provide for higher call

completion. In this context, the Commission invites parties to comment on its proposed estimates for Asia and Europe, including the need to differentiate among differing countries within each region. The Commission also invites parties to comment on an analytical framework for establishing reasonable accounting rate estimates for Latin America and Africa. The Commission adds that it is prepared to consider new proposals to depart from traditional settlement principles, should parties be able to demonstrate that such proposals would better serve the public interest.

Therefore, while the Commission believes that it would be premature to propose additional regulatory actions in this Further Notice to establish the maximum rate that U.S. carriers may pay to terminate U.S.-originated telephone calls, the Commission believes that it is particularly important that parties comment on the development of an analytical framework for assessing the instances in which there has been insufficient progress with particular countries. The Commission proposes to require that U.S. carriers report their progress in negotiating accounting rate reductions with countries in Asia and Europe by January 1, 1993. The Commission invites parties to comment on this proposed report, including the information that should be included in these reports to enable the Commission to determine whether sufficient progress has been made. Moreover, the Commission invites parties to comment on the possibility of preparing a list of the most egregious cases where significant problems continue. In this context, the Commission invites parties to comment whether the Commission has sufficient information in the record with regard to the maximum rates U.S. carriers should pay to terminate U.S. telephone calls in Asia and Europe for the Commission to consider additional regulatory action at a later date, and what additional proceedings would help the Commission conclude whether U.S. carrier payments above these estimated rates could be considered unjust and unreasonable.

The Commission also invites parties to comment on alternative regulatory actions it should consider proposing should U.S. carriers be unsuccessful in their efforts to negotiate lower more cost-based accounting rates with their foreign correspondents. The Commission invites parties to comment on proposals, such as conditioning section 214 authorization to U.S. international common carriers to ensure nondiscriminatory treatment of U.S.

carriers serving a given country. Specifically, the Commission seeks comment on the desirability of conditioning section 214 authorizations where a U.S. carrier seeks to serve a foreign country in which that carrier has an ownership interest or sufficiently close corporate relation with a carrier that either holds some form of privileged access to that country or otherwise has market power. In this context, the Commission states that U.S. international common carriers would include all carriers, domestic or foreign-owned, that seek or hold section 214 authorizations from this Commission.

C. International Resale

In the Notice, the Commission made clear its concern that the continuation of existing resale restrictions for international private line and international telephone services permit telecommunications administrations to ignore cost trends that would otherwise result in lower, more economically efficient, cost-based, international accounting rates and calling prices. Moreover, the Commission noted that while it permits, but has not prescribed, international resale, the Commission has not taken action on an earlier proposal to prescribe such resale. In the Further Notice, the Commission proposes considering anew the elimination of any remaining U.S. carrier restrictions for the international resale of telecommunications facilities and services in this proceeding.

The Commission notes that while many other countries have preferred to continue restrictions on international resale, it is encouraged by movement by some countries towards permitting international resale and by the unanimous decision of CCITT Study Group III to apply the accelerated approval procedure of CCITT Resolution No. 2 to a revised CCITT Recommendation D.1. The Commission also continues to be concerned, however, that some countries might seek to unilaterally evade the provisions of the ISP, which are designed to ensure nondiscriminatory treatment of all U.S. carriers. As a result, the Commission invites parties to comment how full advantage of the CCITT's efforts to provide a revised, more liberal, Recommendation D.1 may be realized, while limiting the opportunity for exclusive arrangements that would discriminate against competing U.S. carriers. Specifically, the Commission invites comment whether it should now require, as a matter of U.S. law, unlimited resale and shared use for all U.S. carrier-provided international

telecommunications services, including international private line service, for all countries. In this context, the Commission clarifies that it will not permit U.S. carrier operating agreements to apply foreign resale prohibitions in the United States. Specifically, the Commission proposes to direct the Common Carrier Bureau to monitor U.S. carrier operating agreements with their foreign correspondents and to use appropriate procedural opportunities to declare null and void any language in operating agreements with U.S. carriers relating to such a requirement.

The Commission also invites parties to comment on an alternative approach that would require that U.S. carriers permit unlimited resale only to those

countries, such as Canada, the United Kingdom, Sweden, and Australia, that are in the process of implementing cost-based international accounting rates and more liberal telecommunications regimes, including permitting or requiring resale of international private line and international telephone services. Finally, the Commission invites parties to comment whether the Commission should continue to require only the filing of carrier operating agreements, or whether the Commission should extend the filing requirement to all international private line interconnection agreements.

Ordering Clauses

Accordingly, *It is Ordered* That Notice

is Hereby Given of the proposed regulatory action described above, and that Comment is Sought on these proposals.

It is Further Ordered That the Common Carrier Bureau is hereby delegated authority to terminate CC Docket 80-176.

For further information on this item contact Michael Mandigo Attorney/Advisor, International Policy Division, Common Carrier Bureau, (202) 632-3214.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

[FR Doc. 91-13051 Filed 6-30-91; 8:45 am]

BILLING CODE 4712-01-M

Notices

Federal Register

Vol. 56, No. 107

Tuesday, June 4, 1991

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Forest Service

Timberline Lodge Winter Sports Resort; Mt. Hood National Forest, Clackamas County, OR

AGENCY: Forest Service, USDA.

ACTION: Cancellation of an environmental impact statement.

SUMMARY: The Forest Service has expanded the scope and planning area, resulting in additional field work and analysis. The Forest Service has made the decision that an intermediate level of analysis is needed for activities that will be considered, before a Forest Service proposal can be defined. Therefore, the notice of intent to prepare an environmental impact statement for Timberline Lodge Winter Sports Resort, published in the October 1, 1990, Federal Register (55 FR 40000), is hereby rescinded.

FOR FURTHER INFORMATION CONTACT: Direct questions regarding this cancellation to Michael Heilman, Mt. Hood National Forest, 2955 NW Division Street, Gresham, Oregon 97030, phone (503) 666-0725.

Dated: May 24, 1991.

Michael S. Edrington,
Forest Supervisor.

[FR Doc. 91-13122 Filed 6-3-91; 8:45 am]

BILLING CODE 3410-11-M

ARMS CONTROL AND DISARMAMENT AGENCY

Public Information Collection Requirement Submitted to OMB for Review

AGENCY: United States Arms Control and Disarmament Agency (ACDA).

ACTION: ACDA has submitted the following public information collection requirement to OMB for review and clearance under the Paperwork

Reduction Act of 1980, Public Law 96-511.

SUMMARY: The information collected under this survey is to provide a list of the facilities which would be subject to routine on-site inspection under the provisions of the proposed Chemical Weapons Convention being negotiated by the United States to ban chemical warfare. The data will enable the government: (1) To estimate the size of the national authority required to support the convention; (2) to educate the companies involved about international inspection requirements; and (3) to provide feedback and input to the U.S. negotiators.

Type of request—Original.

Originating Office—

Title of information collection—U.S. Producers and Consumers of CW Precursors.

Frequency—One-time survey.

Form No.—Not applicable.

Respondents—U.S. chemical companies producing or consuming chemical weapons precursors.

Estimated number of respondents—900.

Average hours per response—2 hours.

Total estimated burden hours—1800 hours.

Section 3504(h) of Public Law 96-511 does not apply.

ADDITIONAL INFORMATION OR

COMMENTS: Copies of the proposed survey guidelines and supporting documents may be obtained from Sig Eckhaus, (202) 647-8777. Comments and questions should be directed to (OMB) Marshall Mills (202) 395-7340. Comments must be received within fifteen (15) days of filing.

Dated: May 29, 1991.

William J. Montgomery,

Director, Office of Administration.

[FR Doc. 91-13111 Filed 6-3-91; 8:45 am]

BILLING CODE 8820-32-M

COMMISSION ON CIVIL RIGHTS

Connecticut Advisory Committee; Agenda and Notice of Public Meeting

Notice is hereby given, pursuant to the Rules and Regulations of the U.S. Commission on Civil Rights, that a planning meeting of the Connecticut Advisory Committee to the Commission will be convened at 1:30 p.m. on

Monday, June 24, 1991, in the Conference Room of the Connecticut Historical Society, 1 Elizabeth Street, Hartford, and adjourned about 4 p.m. The purpose of the meeting is to review the status of the Commission, decide on which colleges and other institutions and individuals to involve in the Committee's campus tensions project, and discuss current civil rights issues in the State.

Persons desiring additional information or wishing to address the Committee during the meeting should contact Committee Chairperson Ivor J. Echols (203/232-7274) or John I. Binkley, Director of the Eastern Regional Division (202/523-5264; TDD 202/376-8117). Hearing impaired persons who will attend the meeting and require the services of a sign language interpreter should contact the Eastern Regional Division at least five (5) working days before the scheduled date of the meeting.

The meeting will be conducted pursuant to the Rules and Regulations of the Commission.

Dated at Washington, DC., May 28, 1991.

Carol-Lee Hurley,

Chief, Regional Programs Coordination Unit.

[FR Doc. 91-13062 Filed 5-29-91; 4:08 pm]

BILLING CODE 6335-01-M

New York State Advisory Committee; Agenda and Notice of Public Meeting

Notice is hereby given, pursuant to the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the New York State Advisory Committee to the Commission will be convened at 1:15 p.m. on Tuesday, June 25, in Conference Room 305-B of the Jacob K. Javits Federal Building, 26 Federal Plaza, Manhattan, and adjourn at 4 p.m. The purpose of the meeting is to discuss the status of the agency, orient recently appointed Committee members, review old business, and discuss topics for a 1992 project.

Persons desiring additional information, or planning a presentation to the Committee, should contact Committee Chairperson Setsuko M. Nishi (718/780-5314, 914/359-0813) or John I. Binkley, Director of the Eastern Regional Division, at (202/523-5264; TDD 202/376-8117). Hearing impaired persons who will attend the meeting and

require the services of a sign language interpreter should contact the Eastern Regional Division at least five (5) working days before the scheduled date of the meeting.

The meeting will be conducted pursuant to the Rules and Regulations of the Commission.

Dated at Washington, DC., May 28, 1991.

Carol-Lee Hurley,
Chief, Regional Programs Coordination Unit.
[FR Doc. 91-13063 Filed 5-29-91; 4:09 pm]
BILLING CODE 6335-01-M

North Dakota Advisory Committee; Agenda and Notice of Public Meeting

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a meeting of the North Dakota Advisory Committee to the Commission will be held from 10 a.m. until 1 p.m. on Thursday, June 27, 1991, at the Sheraton Sun, 6th and Broadway, Bismarck, North Dakota. The purpose of this meeting is to discuss current issues, orient new members, and plan future activities.

Persons desiring additional information should contact Committee Chairperson Bryce Streibel, or William F. Muldrow, Director of the Rocky Mountain Regional Division (303) 844-6716 (TDD 303-844-6720). Hearing-impaired persons who will attend the meeting and require the services of a sign language interpreter should contact the Regional Division at least five (5) working days before the scheduled date of the meeting.

The meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, DC, May 28, 1991.

Carol-Lee Hurley,
Chief, Regional Programs Coordination Unit.
[FR Doc. 91-13064 Filed 5-29-91; 4:09 pm]
BILLING CODE 6335-01-M

South Dakota Advisory Committee; Agenda and Notice of Public Meeting

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a meeting of the South Dakota Advisory Committee to the Commission will be held from 1 p.m. until 3:30 p.m. on Wednesday, June 26, 1991, at the Best Western Town House, 400 S. Main Ave., Sioux Falls, South Dakota 57102. The purpose of this meeting is to discuss current issues and plan future activities.

Persons desiring additional information should contact Committee Chairperson Marcella Pure or William F.

Muldrow, Director of the Rocky Mountain Regional Division (303) 844-6716 (TDD 303-844-6720). Hearing-impaired persons who will attend the meeting and require the services of a sign language interpreter should contact the Regional Division at least five (5) working days before the scheduled date of the meeting.

The meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, DC, May 28, 1991.

Carol-Lee Hurley,
Chief, Regional Programs Coordination Unit.
[FR Doc. 91-13065 Filed 5-29-91; 4:09 pm]
BILLING CODE 6335-01-M

DEPARTMENT OF COMMERCE

Competitiveness Policy Council; Meeting

AGENCY: Economics and Statistics Administration; Department of Commerce.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Public Law 92-463, as amended, the Department of Commerce announces a forthcoming meeting of the Competitiveness Policy Council.

DATES: June 21, 1991, 10 a.m. to noon.

ADDRESSES: U.S. Department of Commerce, Herbert C. Hoover Building, room 5859, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Jeffrey L. Mayer, Director, Office of Economic Policy, room 4856, U.S. Department of Commerce, Washington, DC 20230; (202) 377-1727.

SUPPLEMENTARY INFORMATION: The Competitiveness Policy Council (CPC) was established by the Competitiveness Policy Council Act, as contained in the Trade and Competitiveness Act of 1988, Public Law 100-418, sections 5201-5210, as amended by the Customs and Trade Act of 1990, Public Law 101-382, section 133. The CPC is composed of 12 members and is to advise the President and Congress on competitiveness matters. This meeting is the first meeting of the CPC and is organizational in nature. The main purpose of the meeting will be the selection of a chairperson.

The meeting will be open to the public up to the seating capacity of the room. Visitors will be requested to sign a visitor's register.

TYPE OF MEETING: Open.

AGENDA: The agenda will consist of opening remarks, a review of CPC's background and charter, an ethics

briefing, election of a chairperson, and discussion of organization, staffing and other procedural issues.

Dated: May 23, 1991.

Mark W. Plant,
Deputy Under Secretary for Economic Affairs.
[FR Doc. 91-13129 Filed 6-3-91; 8:45 am]
BILLING CODE 3510-EA-M

Bureau of the Census

[Docket Number 910521-1121]

Company Affiliation, Geographic Location and Kind of Business for Establishments with Employees in Areas of Communications, Public Utilities and Transportation; Finance, Insurance and Real Estate; and Industry 8999—Services, Not Elsewhere Classified

AGENCY: Bureau of the Census, Commerce.

ACTION: Notice of consideration.

SUMMARY: The Bureau of the Census is proposing to conduct this survey prior to the 1992 Economic Censuses under the provisions of title 13, United States Code, sections 9, 131, 182, 224, and 225. The Census Bureau will collect information on the company affiliation, geographic location and kind of business for establishments with employees in areas of communications, public utilities and transportation; finance, insurance and real estate; and Industry 8999—services, not elsewhere classified. The information obtained will be used to maintain the Census Bureau file of company and establishment records and to update the Standard Statistical Establishment List.

DATES: Comments must be submitted on or before July 5, 1991.

ADDRESSES: Director, Bureau of the Census, Washington, DC 20233.

FOR FURTHER INFORMATION CONTACT: C. Harvey Monk on (301) 763-2536.

SUPPLEMENTARY INFORMATION: The data will have significant application to the needs of the public and to governmental agencies and are not publicly available from nongovernmental or governmental sources. The survey, if conducted, shall begin no earlier than December 1, 1991.

Copies of the proposed form are available on request to the Director, Bureau of the Census, Washington, DC 20233.

Dated: May 23, 1991.

Barbara Everitt Bryant,
Director, Bureau of the Census.
[FR Doc. 91-13125 Filed 6-3-91; 8:45 am]
BILLING CODE 3510-07-M

Foreign-Trade Zones Board

[Order No. 525]

Madawaska Foreign-Trade Zone Corp.; Application

In the matter of resolution and order approving the application of the Madawaska Foreign-Trade Zone Corporation for a foreign-trade zone in Madawaska, Maine within the Madawaska customs port of entry and a subzone at the Northern Trading Company Plant in Madawaska.

Proceedings of the Foreign-Trade Zones Board, Washington, DC.

Resolution and Order

Pursuant to the authority granted in the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a-81u), the Foreign-Trade Zones Board (the Board) adopts the following Resolution and Order:

The Board, having considered the matter, hereby orders:

After consideration of the application of the Madawaska Foreign-Trade Zone Corporation, a Maine non-profit corporation, filed with the Foreign-Trade Zones Board (the Board) on February 15, 1991, requesting a grant of authority for establishing, operating, and maintaining a general-purpose foreign-trade zone in the Town of Madawaska (Aroostook County), Maine, within the Madawaska Customs port of entry, and for special-purpose subzone status at the toiletries and cosmetics packaging and manufacturing plant of Northern Trading Company, Inc., the Board, finding that the requirements of the Foreign-Trade Zones Act, as amended, and the FTZ Board's regulations are satisfied, and that the proposal is in the public interest, approves the application.

As the proposal involves open space on which buildings may be constructed by parties other than the grantee, this approval includes authority to the grantee to permit the erection of such buildings, pursuant to § 400.815 of the Board's regulations, as are necessary to carry out the zone proposal, providing that prior to its granting such permission it shall have the concurrences of the local District Director of Customs, the U.S. Army District Engineer, when appropriate, and the Board's Executive Secretary. Further, the grantee shall notify the Board for approval prior to the commencement of any manufacturing operation within the zone. The Secretary of Commerce, as Chairman and Executive Officer of the Board, is hereby authorized to issue a grant of authority and appropriate Board Order.

Grant of Authority**To Establish, Operate, and Maintain a Foreign-Trade Zone and a Foreign-Trade Subzone Within the Madawaska Customs Port of Entry**

Whereas, by an Act of Congress approved June 18, 1934, an Act "To provide for the establishment, operation, and maintenance of foreign-trade zones in ports of entry of the United States, to expedite and encourage foreign commerce, and for other purposes," as amended (19 U.S.C. 81a-81u) (the Act), the Foreign-Trade Zones Board (the Board) is authorized and empowered to grant to corporations the privilege of establishing, operating, and maintaining foreign-trade zones in or adjacent to ports of entry under jurisdiction of the United States;

Whereas, the Board's regulations (15 CFR 400.304) provide for the establishment of special-purpose subzones when existing zone facilities cannot serve the specific use involved, and where a significant public benefit will result;

Whereas, the Madawaska Foreign-Trade Zone Corporation, Madawaska, Maine, has made application (filed February 15, 1991, FTZ Docket 9-91, 56 FR 8749, 3/1/91) in due and proper form to the Board, requesting the establishment, operation, and maintenance of a foreign-trade zone at a site in Madawaska, Maine, within the Madawaska Customs port of entry; and for subzone status at the Northern Trading Company plant in Madawaska;

Whereas, notice of said application has been given and published, and full opportunity has been afforded all interested parties to be heard; and

Whereas, the Board has found that the requirements of the Act and the Board's regulations are satisfied with respect to the proposed sites;

Now, therefore, The Board hereby grants to the Grantee the privilege of establishing, operating, and maintaining a foreign-trade zone, and establishing a subzone at the Northern Trading Company plant, designated on the records of the Board as Foreign-Trade Zone No. 179, and Foreign-Trade Subzone 179A, at the locations mentioned above and more particularly described on the maps and drawings accompanying the application in Exhibits IX and X, subject to the provisions, conditions, and restrictions of the Act and the Regulations issued thereunder, to the same extent as though the same were fully set forth herein, and also the following express conditions and limitations.

Operation of the foreign-trade zone and subzone shall be commenced by the

Grantee within a reasonable time from the date of issuance of the grant, and prior thereto, any necessary permits shall be obtained from federal, state, and municipal authorities.

The Grantee shall allow officers and employees of the United States free and unrestricted access to and throughout the foreign-trade zone and subzone sites in the performance of their official duties.

The grant does not include authority for manufacturing operations within the general-purpose zone, and the Grantee shall notify the Board for approval prior to the commencement of any manufacturing operations within the general-purpose zone, and any new manufacturing within the subzone.

The grant shall not be construed to relieve the Grantee from liability for injury or damage to the person or property of others occasioned by the construction, operation, or maintenance of said zone, and in no event shall the United States be liable therefor.

The grant is further subject to settlement locally by the District Director of Customs and the Army District Engineer with the Grantee regarding compliance with their respective requirements for the protection of the revenue of the United States and the installation of suitable facilities.

In witness whereof, the Foreign-Trade Zones Board has caused its name to be signed and its seal to be affixed hereto by its Chairman and Executive Officer at Washington, DC, this 24th day of May, 1991, pursuant to Order of the Board.

Foreign-Trade Zones Board.

Wendell L. Willkie II,

General Counsel, Department of Commerce.

[FR Doc. 91-13134 Filed 6-3-91; 8:45 am]

BILLING CODE 3510-DS-M

[Docket 20-91]

Foreign-Trade Zone 141—Monroe County, NY; Request for Export Manufacturing Authority Sayett Technology, Inc., Plant

The comment period for the above case, involving a request for export manufacturing authority at the computer projector display plant of Sayett Technology, Inc. (56 FR 16060, 4/19/91), is extended to July 26, 1991, to allow interested parties additional time in which to comment on the proposal.

Comments in writing are invited during this period. Submissions shall include 5 copies. Material submitted will be available at: Office of the Executive

Secretary, Foreign-Trade Zones Board,
U.S. Department of Commerce, room
3716, 14th and Pennsylvania Avenue,
NW., Washington, DC 20230.

Dated: May 29, 1991.

John J. Da Ponte, Jr.,
Executive Secretary.

[FR Doc. 91-13135 Filed 5-3-91; 8:45 am]

BILLING CODE 3510-DS-M

International Trade Administration

[C-549-501]

Certain Circular Welded Carbon Steel Pipes and Tubes from Thailand; Final Results of Countervailing Duty Administrative Review

AGENCY: International Trade Administration/Import Administration Department of Commerce.

ACTION: Notice of final results of countervailing duty administrative review.

SUMMARY: On January 11, 1991, the Department of Commerce published the preliminary results of its administrative review of the countervailing duty order on certain circular welded carbon steel pipes and tubes from Thailand for the period January 1, 1987 through December 31, 1987. We have now completed that review and determine the total bounty or grant to be 1.64 percent ad valorem.

EFFECTIVE DATE: June 4, 1991.

FOR FURTHER INFORMATION CONTACT: Stephanie Moore or Paul McGarr, Office of Countervailing Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230; telephone (202) 377-2786.

SUPPLEMENTARY INFORMATION:

Background

On January 11, 1991, the Department of Commerce (the Department) published in the Federal Register (56 FR 1173) the preliminary results of its administrative review of the countervailing duty order on certain circular welded carbon steel pipes and tubes from Thailand (50 FR 32751; August 14, 1985). The Department has now completed that administrative review in accordance with section 751 of the Tariff Act of 1930, as amended (the Tariff Act).

Scope of Review

Imports covered by this review are shipments of circular welded carbon steel pipes and tubes ("pipes and tubes") with an outside diameter of 0.375 inch or more but not over 16 inches, of any wall thickness. These

products, commonly referred to in the industry as standard pipe or structural tubing, are produced to various ASTM specifications, most notably A-120, A-53 and A-135. During the review period, such merchandise was classifiable under item numbers 610.3231, 610.3234, 610.3241, 610.3242, 610.3243, 610.3252, 610.3254, 610.3256, 610.3258 and 610.4925 of the Tariff Schedules of the United States Annotated (TSUSA). This merchandise is currently classifiable under item numbers 73.04.1010, 73.04.2050, 73.04.2070, 73.04.3100, 73.04.3900, 73.04.9050, 73.05.1010, 73.05.1110, 73.05.1210, 73.05.1910, 73.05.3140, 73.05.3910, 73.05.9010, 73.05.2060, 73.06.3010, 73.06.3050, 73.06.6050 and 73.06.9010 of the Harmonized Tariff Schedule (HTS). The TSUSA and HTS item numbers are provided for convenience and Customs purposes. The written description remains dispositive.

The review covers the period January 1, 1987 through December 31, 1987 and the following programs: (1) Tax certificates for exports; (2) export packing credits; (3) electricity discounts for exporters; (4) tax and duty exemptions under section 28 of the Investment Promotion Act (IPA); (5) repurchase of industrial bills; (6) export processing zones; (7) International Trade Promotion Fund; (8) reduced business taxes for producers; and (9) additional incentives under the IPA.

Analysis of Comments Received

We gave interested parties an opportunity to comment on the preliminary results. We received written comments from the petitioners, the Standard Pipe Subcommittee of the Committee on Pipe and Tube Imports and its individual producer members, and the respondents.

Comment 1: The petitioners argue that the Department should not use a sectoral input/output (I/O) study, which covers the entire secondary steel sector, in determining the amount of import duties and indirect taxes on inputs used in the production of pipes and tubes. According to the petitioners, the Department's use of the I/O study to establish the amount of indirect taxes and import duties imposed on inputs is incorrect as a matter of law. Both the GATT and U.S. law require the Department to determine any subsidy regarding tax rebates by comparing the taxes rebated on the "like product" to the actual indirect taxes on inputs physically-incorporated into that product. By following in the preliminary results of this review the reasoning adopted in Final Affirmative Countervailing Duty Determination and

Countervailing Duty Order; Carbon Steel Butt-Weld Pipe Fittings from Thailand (55 FR 1695; January 18, 1990) (Butt-Weld Pipe Fittings), the petitioners argue that the Department deviated from the requirements of the law; the Department incorrectly examined the indirect tax incidence for the entire secondary steel sector I/O 106, rather than for the pipes and tubes that were actually subject to the review.

The respondents reply that neither section 771(5) of the Tariff Act nor item (h) of the Illustrative List of the Agreement on Interpretation and Application of Articles VI, XVI and XXIII of the General Agreement on Tariffs and Trade (the Subsidies Code), prohibits the Department from calculating the amount of the allowable rebate on a sectoral basis where the amount of the nominal rebate for the product under review is calculated by the foreign government on this basis. The methodology used in completing the I/O table has repeatedly been evaluated and approved by the Department in numerous countervailing duty determinations involving products from Thailand.

Department's Position: We disagree with the petitioners. The Government of Thailand relies upon the I/O study in calculating the rebate rates for agricultural and manufactured goods. The study is updated periodically to reasonably reflect the amount of import duties and indirect taxes actually paid on the merchandise. The I/O study is structured on a sectoral basis, and the same rebate rates apply to all products within each sector. Pipes and tubes are included in section I/O 106, which consists of secondary steel products; there is no more detailed disaggregation of the indirect tax incidence attributable to pipes and tubes. Therefore, we used the indirect tax incidence on all items physically incorporated into secondary steel products in sector I/O 106 to calculate the amount of the allowable rebate of indirect taxes. We have reviewed and verified the validity of the I/O study in several cases. See Butt Weld Pipe Fittings (55 FR 1695; January 18, 1990); Final Affirmative Countervailing Duty Determination and Countervailing Duty Order; Malleable Cast Iron Pipe Fittings from Thailand (54 FR 6439; February 10, 1989) (Malleable Cast Iron Pipe Fittings) and the preliminary results of this administrative review.

Comment 2: The petitioners argue that the Department has based its subsidy calculation entirely on a study that includes no data for producers of the subject merchandise. In *Maverick Tube*

Corp. v. United States, 687 F. Supp. 1569 (1988), the Court of International Trade (CIT) ruled that specific data relating to one industry did not constitute substantial evidence to apply to another industry because there was no evidence indicating why the data was relevant.

The respondents reply that *Maverick Tube* is distinguishable from the facts in this review in two respects. First, the analysis at issue in *Maverick Tube* was based on underlying data compiled decades earlier, which the CIT considered to be dated and therefore unreliable. For pipes and tubes, however, the I/O study has been updated twice, in 1980 and 1985, since it first appeared in 1975. These updates ensure that the rebate amount reasonably reflects the amount of import duties and indirect taxes actually paid on the merchandise. Second, the analysis rejected in *Maverick Tube* had used data and estimates from a study that, according to the study itself, could not be extended to the industry to which it had been applied. Conversely, data on pipes and tubes are specifically included in the sector I/O 106 study, and the rebate rates were calculated using this data.

Department's Position: We disagree with the petitioners. We verified that data on pipes and tubes are included in the sector I/O 106 study on secondary steel products. The I/O study is conducted by surveys of companies in specific sectors and subsequent calculation of input coefficients based on the surveys. There are many subsectors in the secondary steel sector. To obtain input coefficients for subsectors not surveyed, data was taken from various companies' profit and loss accounts and from case studies. The I/O study is updated periodically to ensure that the rebate amount reasonably reflects the amount of import duties and indirect taxes paid.

Comment 3: The petitioners argue that the Department has erred in calculating the amount of excessive indirect tax rebate by including tax incidence on inputs from sector I/O 105, iron and steel products. The petitioners contend that because no sector I/O 105 products were physically incorporated into the subject merchandise, the Department should exclude from the tax incidence calculation any business and municipal taxes imposed on sector 105 products.

The respondents reply that the petitioners' position is inconsistent with *Industrial Fasteners Group v. United States*, 710 F.2d 1576 (Fed. Cir. 1983), which clearly directs the Department to examine the original basis of the rebate calculations by the foreign government for a determination of the indirect taxes

incidence carried by the exported articles. The respondents further reply that there is no way to segregate the value of indirect taxes exclusively incurred by any subset of products included in sector I/O 106. The I/O study calculated a weighted-average indirect tax incidence on items physically incorporated into all finished products in sector I/O 106.

Department's Position: We disagree with the petitioners. As noted in the Department's Position at Comment 1, we have determined that it is appropriate to base the calculation of allowable tax incidence on all inputs physically incorporated into sector I/O 106 products, as the tax incidence for all products within that sector, including the subject merchandise, is determined on a sector-wide basis. Because certain sector I/O 105 products are physically incorporated into certain sector I/O 106 products, the tax incidence calculation properly included taxes on those I/O 105 products.

Comment 4: The petitioners argue that basic industrial chemicals are not physically incorporated into pipes and tubes, and the taxes imposed on the chemicals should not be included in the calculation of the indirect tax incidence on pipes and tubes.

The respondents reply that the Department's methodology and finding in *Malleable Cast Iron Pipe Fittings from Thailand* (54 FR 6439; February 10, 1989), that basic industrial chemicals are physically incorporated into inputs in the I/O 106 sector, should be followed in this proceeding as well.

Department's Position: We disagree with the petitioners. We previously determined and verified in *Malleable Cast Iron Pipe Fittings from Thailand* (54 FR 6439; February 10, 1989), that aluminum chloride and zinc chloride are physically incorporated into malleable cast iron pipe fittings during the galvanizing process.

Because pipes and tubes, like malleable cast iron pipe fittings, are classified in sector I/O 106 as secondary steel products, we determine that the tax incidence on basic industrial chemicals should be included in the allowable rebate because these chemical inputs are physically incorporated into products in the secondary steel sector.

Comment 5: The petitioners argue that, because respondents withdrew previously submitted verification exhibits, the Department should determine that respondents failed verification and resort to the use of best information available. According to the petitioners, the withdrawal of these exhibits is a flagrant attempt to

circumvent the recent amendment to section 777 of the Tariff Act; the purpose of the amendment was to encourage and facilitate the properly protected disclosure of proprietary information in order to improve the investigative process and the ability of interested parties to participate fully in the review.

The petitioners further argue that the Department's choice of those documents as verification exhibits indicated that they were crucial to reaching a determination as to the correctness and reliability of the information submitted by the Thai government.

Notwithstanding this withdrawal, the Department has relied on information contained in these documents in making its determination. Given their importance, the withdrawal of these documents leaves a gaping hole in the evidentiary record and leaves the Department's final results open to attack as unsupported by substantial evidence on the record or otherwise not in accordance with law.

The respondents reply that the Thai government submitted the verification exhibits based on the Department's long-standing policy of not releasing exhibits under administrative protective order (APO). In *Allied Tube & Conduit Corporation v. United States*, 13 CIT —, Slip Op. 89-124 (1989), the CIT, following a decision in *Bethlehem Steel Corporation v. United States*, 13 CIT —, Slip Op. 89-105 (July 25, 1989), held for the first time that provisions of the Omnibus Trade and Competitiveness Act of 1988, which amended section 777(c) of the Tariff Act, required the disclosure of proprietary foreign government verification exhibits under APO. The CIT, however, noted that the Thai government would not be compelled to consent to the release of business proprietary information contained within the verification documents. The statute allows for the party submitting the documents to withdraw them should the administering agency determine that they are subject to disclosure.

The respondents further state that there is no requirement in the law that copies of verification documents be submitted or that individual statements in the verification report be supported by copies of verification documents annexed to the report. The verification report is independent of the documents reviewed for purposes of verification. Given the unusual circumstances of this case, no action should be taken against the Thai government's interests other than to exclude the withdrawn documents from the administrative record.

Department's Position: We disagree with the petitioners. Verification is a process in which the Department examines invoices, accounting records, programs and eligibility requirements, and other documents, in order to determine the accuracy of the questionnaire responses. We do not request verification exhibits on every item or program that is verified. Exhibits are collected as samples, and as such, are not crucial for a successful verification. Our preliminary results, as well as these final results, are based on substantial evidence contained in the record. Furthermore, all company exhibits remained in the record, and the only exhibits withdrawn were those from the Thai government. The calculation of benefits bestowed from the various programs was based on information contained in the record and does not rely on information contained in the withdrawn exhibits.

Comment 6: The petitioners argue that the Department has failed to investigate the Thai government's subsidization of pipes and tubes producers' legal expenses. A press report was provided to the Department which, according to the petitioners, indicated that the Thai government had reimbursed part or all of the legal expenses incurred by the respondents.

Department's Position: The Thai press report that was provided by the petitioners merely states that "six major exporters of pipes and tubes and the Government have hired an American attorney and filed a lawsuit in the U.S. to fight against the antidumping duty margins." This information provides no indication of how any legal expenses incurred might be paid and in no way forms the basis for an allegation that the Department should pursue.

Comment 7: The respondents argue that the Department improperly included export packing credit (EPC) loans due or repaid after the end of the review period in the calculation of benefits received by Thai Union. In the case of EPCs, the interest is paid either on the date of repayment of the principal or the due date, whichever occurs first, and the Department considers the subsidy event on preferential loans to occur when the interest is paid.

The petitioners agree with the respondents and state that the Department's consistent practice has been to include in its EPC calculation only the interest or penalties on loans whose due date or repayment date falls within the review period.

Department's Position: We agree. We inadvertently include in the calculation of Thai Union's benefits from EPCs a

few loans that were taken out during 1987 with repayment dates in 1988. We have adjusted our calculations to eliminate any benefits from those loans.

Comment 8: The respondents argue that the Department overstated the EPC benefits received by Thai Union by incorrectly assuming that all EPC loans for which export destinations were not identified involved exports of the subject merchandise to the United States. The questionnaire response indicates that Thai Union received loans in connection with sales to the United States from only two banks, and the Department did not request that the company supply the destination of all EPC loans. The Department verified the total value of EPC loans repaid during 1987 in connection with exports of the subject merchandise to the United States at the Bank of Thailand (BOT). By comparing information verified at the BOT to the information on Thai Union's loans, it can be demonstrated that the sum of the loans indicating U.S. destinations received from the two banks is comparable to the figure reported by the BOT. Thus, in calculating the benefit from Thai Union's loans, the Department should include only those loans specifically identified as tied to exports having U.S. destinations.

The petitioners reply that Thai Union bore the burden of proving that the loans were not tied to U.S. exports. Thai Union provided information to show the destination of some exports. There is nothing in the record to indicate that it could not have provided the same information on all EPC loans. In light of that failure, there is reason to suppose that the information withheld was detrimental to the interests of Thai Union.

Department's Position: An EPC loan is obtained by an exporter in the following manner: (1) The exporter issues a promissory note for the amount of the export shipment to a commercial bank; (2) the commercial bank, in turn, applies to the Bank of Thailand (BOT) for the repurchase arrangement; and (3) the BOT repurchases promissory notes, the whole or part, from commercial banks. When the BOT repurchases the promissory note, it records the entire amount of the promissory note and the amount repurchased. We consider only the amount repurchased by the BOT to be countervailable. See *Butt-Weld Pipe Fittings* (55 FR 1695; January 18, 1990). Based on our analysis of the loans repurchased by the BOT and the loans issued by the two banks which noted U.S. destinations, we agree with the respondents that the value of the EPC loans based on exports to the United

States from two banks is comparable to the BOT figure for repurchased EPC loans for Thai Union's exports to the United States. Therefore, we have adjusted our calculation of Thai Union's benefit from EPC loans to include only those loans listed for exports to the United States from these two banks.

Comment 9: The respondents argue that the Department's application to Siam Steel and Thai Hong of the highest company EPA rate calculated unjustly overstate the benefit received by both of these companies. Instead, the respondents argue that the maximum EPC benefit possible for each company would result from the Department assuming, as "best information available," that each loan had a duration of 180 days, the maximum allowable, and applying this and the interest differential to the EPCs repurchased by the BOT.

The petitioners reply that the Department was justified in using the highest calculated rate for any respondent within that country that supplied an adequate and verified response.

Department's Position: After making the adjustments discussed in Comments 7 and 8, the benefit calculated for Thai Union's EPC loans declined. Consequently, the Department has determined to use, as "best information available," the rate calculated for Siam Steel and Thai Hong when we assume that all BOT repurchased loans had a duration of 180 days. This results in a higher rate than applying the highest rate from a company with an adequate and verified response. As a result of the previously noted adjustments, the benefit from the EPC loan program has changed from 1.29 percent *ad valorem* in our preliminary results to 0.88 percent *ad valorem* in these final results.

Final Results of Review

As a result of our review, we determine the total bounty or grant to be 1.64 percent *ad valorem* during the period January 1, 1987 through December 31, 1987.

The Department will instruct the Customs Service to assess countervailing duties of 1.64 percent of the f.o.b. invoice price on all shipments of this merchandise exported on or after January 1, 1987, and on or before December 31, 1987.

The Department will also instruct the Customs Service to collect a cash deposit of estimated countervailing duties of 1.64 percent of the f.o.b. invoice price on all shipments of this merchandise entered, or withdrawn from warehouse, for consumption on or

after the date of publication of this notice. This deposit requirement shall remain in effect until publication of the final results of the next administrative review.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)) and 19 CFR 355.22.

Dated: May 28, 1991.

Eric I. Garfinkel,
Assistant Secretary for Import
Administration.

[FR Doc. 91-13136 Filed 6-3-91; 8:45 am]

BILLING CODE 3510-DS-M

International Trade Administration [C-201-001]

Leather Wearing Apparel From Mexico: Final Results of Countervailing Duty Administrative Reviews and Revocation in Part

AGENCY: International Trade
Administration/Import Administration
Department of Commerce.

ACTION: Notice of Final Results of
Countervailing Duty Administrative
Reviews and Revocation in Part.

SUMMARY: On March 22, 1991, the Department of Commerce published the preliminary results of its administrative reviews and intent to revoke in part the countervailing duty order on leather wearing apparel from Mexico. We have now completed those reviews and determine the total bounty or grant to be 0.08 percent *ad valorem* during the period January 1, 1988 through December 31, 1988, and 0.07 percent *ad valorem* during the period January 1, 1989 through December 31, 1989. In accordance with 19 CFR 255.7, any rate less than 0.50 percent *ad valorem* is *de minimis*.

As of result of these reviews, and in accordance with 19 CFR 355.25(a)(3), we are revoking the order with regard to one producer/exporter, Manufacturas Industriales de Nogales (MINSA).

EFFECTIVE DATE: June 4, 1991.

FOR FURTHER INFORMATION CONTACT:
Britt Doughtie, Allan Christian or Maria MacKay, Office of Countervailing Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230; telephone (202) 377-2786.

SUPPLEMENTARY INFORMATION:

Background

On March 22, 1991, the Department of Commerce (the Department) published in the Federal Register (56 FR 12173) the preliminary results of its administrative

reviews and intent to revoke in part the countervailing duty order on leather wearing apparel from Mexico (46 FR 21357; April 10, 1981). The Department has now completed these administrative reviews in accordance with section 751 of the Tariff Act of 1930, as amended (the Tariff Act).

Scope of Review

Imports covered by this review are shipments of Mexican leather wearing apparel. These products include leather coats and jackets for men, boys, women, girls and infants, and other leather apparel products including leather vests, pants and shorts. Also included are outer leather shells and parts and pieces of leather wearing apparel. During the 1988 review period, such merchandise was classifiable under item numbers 791.7620, 791.7640 and 791.7660 of the Tariff Schedules of the United States Annotated (TSUSA). During the 1989 review period, this merchandise was classifiable under item numbers 4203.10.4030, 4203.10.4060 and 4203.10.4090 of the Harmonized Tariff Schedule (HTS). The TSUSA and HTS item numbers as provided for convenience and Customs purposes. The written description remains dispositive.

These reviews cover the period January 1, 1988 through December 31, 1988, and January 1, 1989 through December 31, 1989, and nine programs: (1) FOMEX; (2) FOGAIN; (3) PITEX; (4) FONEI; (5) CEPROFI; (6) Article 15 loans; (7) State tax incentives; (8) BANCOMEXT loans; and (9) Import duty reductions and exemptions.

Analysis of Comments Received

We gave interested parties an opportunity to comment on the preliminary results. We received no comments.

Final Results of Review

As a result of our reviews, we determine the total bounty or grant to be 0.08 percent *ad valorem* during the period January 1, 1988 through December 31, 1988, and 0.07 percent *ad valorem* during the period January 1, 1989 through December 31, 1989. In accordance with 19 CFR 355.7, any rate less than 0.50 percent *ad valorem* is *de minimis*.

Because MINSA has not applied for or received any bounty or grant on the subject merchandise for five consecutive years, and has provided, together with the Government of Mexico, certification that it will not apply for or receive any bounty or grant in the future, we are revoking the countervailing duty order with regard to MINSA, in accordance

with 19 CFR 355.25 (a)(3), effective January 1, 1990.

Therefore, the Department will instruct the Customs Service to liquidate, without regard to countervailing duties, all shipments of this merchandise exported on or after January 1, 1988 and on or before December 31, 1989, and to terminate the suspension of liquidation requirement with regard to MINSA. The Department will also instruct the Customs Service to waive cash deposits of estimated countervailing duties, as provided by section 751(a)(1) of the Tariff Act, on all shipments of this merchandise entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice. The deposit waiver shall remain in effect until publication of the final results of the next administrative review.

These administrative reviews and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)) and 19 CFR 355.22 and 355.25.

Dated: May 28, 1991.

Eric I. Garfinkel,
Assistant Secretary for Import
Administration.

[FR Doc. 91-13137 Filed 6-3-91; 8:45 am]

BILLING CODE 3510-DS-M

Short Supply Determination: Certain Aluminum-Killed Cold-Rolled Steel Sheet

AGENCY: Import Administration,
International Trade Administration,
Commerce.

ACTION: Notice of short-supply
determination on certain aluminum-
killed cold-rolled steel sheet.

SHORT-SUPPLY REVIEW NUMBER: 50.

SUMMARY: The Secretary of Commerce ("Secretary") hereby grants a short-supply request for 1,100 metric tons of certain aluminum-killed ("AK") cold-rolled steel sheet for the remainder of 1991 under the U.S.-EC steel arrangement.

EFFECTIVE DATE: May 29, 1991.

FOR FURTHER INFORMATION CONTACT:
Mark B. Brechtel or Richard O. Weible,
Office of Agreements Compliance,
Import Administration, U.S. Department
of Commerce, room 7866, Pennsylvania
Avenue and 14th Street, NW.,
Washington, DC 20230, (202) 377-1388 or
(202) 377-0159.

SUPPLEMENTARY INFORMATION: On May 14, 1991, the Secretary received an adequate petition from Buckbee Mears Cortland, Inc. ("BMC") requesting short supply of 1,100 metric tons of certain AK

cold-rolled steel sheet for the remainder of 1991 under Article 8 of the Arrangement Between the European Coal and Steel Community and the European Economic Community and the Government of the United States of America Concerning Trade in Certain Steel Products. BMC claimed that the requested product, used to manufacture aperture masks for color television picture and data display tubes, is not produced domestically and that its potential European supplier does not have sufficient regular export licenses available during this time period. The Secretary conducted this short-supply review pursuant to Section 4(b)(4)(A) of the Steel Trade Liberalization Program Implementation Act, Public Law No. 101-221, 103 Stat. 1886 (1989) ("the Act"), and § 357.102 of the Department of Commerce's Short-Supply Procedures. (19 CFR 357.102) ("Commerce's Short-Supply Procedures").

The requested product meets the following specifications:

Chemistry (in maximum values): Carbon (0.004 percent, aim 0.002 percent); Silicon (0.040 percent); Sulphur (0.030 percent); Aluminum (0.070 percent); Nitrogen (0.008 percent); Manganese (0.450 percent); Copper (0.080 percent); and Phosphorus (0.035 percent);
Width range (and tolerance): 15 in. to 30 in. (+/- 0.04 in.);
Thickness range (and tolerance): 0.001 in. to 0.0102 in. (+0.00028 in., -0.00020 in.);
Coil weight: 1.5 to 3.0 metric tons, with up to 20 percent in 0.5 to 1.5 metric ton weight.

On May 14, 1991, the Secretary established an official records of this short-supply request (Case Number 50) in the Central Records Unit, room B-099, Import Administration, U.S. Department of Commerce at the above address. Section 4(b)(4)(B)(i) of the Act and § 357.106(b)(1) of Commerce's Short-Supply Procedures require the Secretary to make a determination with respect to a short-supply petition not later than the 15th day after the petition is filed if the Secretary finds that one of the following conditions exist: (1) The raw steelmaking capacity in the United States equals or exceeds 90 percent; (2) the importation of additional quantities of the requested steel product was authorized by the Secretary during each of the two immediately preceding years; or (3) the requested steel product is not produced in the United States. The Secretary finds, on the basis of available information, that this product is not produced in the United States at this time. Therefore, in accordance with section 4(b)(4)(B)(i)(III) of the Act and

§ 357.106(b)(1)(iii) of Commerce's Short-Supply Procedures, the Secretary applied a rebuttable presumption that this product is presently in short supply. Unless domestic steel producers provided proof that they could and would produce the requested quantity of this product within the desired period of time, provided it represents a normal order-to-delivery period, the Secretary would issue a short-supply allowance not later than May 29, 1991.

ACTION: On May 21, 1991, the Secretary published a notice in the *Federal Register* (56 FR 23286) announcing its review of this request and providing domestic steel producers an opportunity to rebut the presumption of short supply. All comments were to be submitted no later than May 28, 1991. No comments were received.

CONCLUSION: Since the Secretary received no comments to the *Federal Register* notice from potential domestic suppliers to rebut the Secretary's presumption of short supply for the requested product, the Secretary hereby grants, pursuant to section 4(b)(4)(A) of the Act and § 357.102 of Commerce's Short-Supply Procedures, a short-supply allowance for 1,100 metric tons of the requested steel sheet for the remainder of 1991 under Article 8 of the U.S.-EC steel arrangement.

Dated: May 29, 1991.

Marjorie A. Chorlins,
 Acting Assistant Secretary for Import Administration.

[FR Doc. 91-13138 Filed 6-3-91; 8:45 am]

BILLING CODE 3510-DS-M

University of California at Berkeley, et al.; Consolidated Decision on Applications for Duty-Free Entry of Scientific Instruments

This is a decision consolidated pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897; 15 CFR 301). Related records can be viewed between 8:30 a.m. and 5 p.m. in room 4204, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, DC.

Comments: None received.

Decision: Approved. No instrument of equivalent scientific value to the foreign instruments described below, for such purposes as each is intended to be used, was being manufactured in the United States.

Docket Number: 90-211.

Applicant: University of California at Berkeley, CA 94720.

Instrument: Imaging Plate X-ray Data Collector.

Manufacturer: MAR Research, West Germany.

Intended Use: See notice at 55 FR 51752, December 17, 1990.

Reasons: The foreign instrument provides X-ray diffraction patterns with a scan and erase cycle time of 90 seconds.

Advice Submitted by: National Institutes of Health, March 27, 1991.

Docket Number: 90-228.

Applicant: University of California, Santa Cruz, CA 95064.

Instrument: Infrared Monocular Oculometer.

Manufacturer: Dr. Bouis, West Germany.

Intended Use: See notice at 56 FR 4046, February 1, 1991.

Reasons: The foreign instrument provides recording of horizontal and vertical eye movements, without eye contact, and with a sampling rate of 4 kHz and resolution better than 5 minutes of arc.

Advice Submitted by: National Institutes of Health, March 27, 1991.

Docket Number: 90-200.

Applicant: University of California, Santa Barbara, CA 93106.

Instrument: Metal-organic Chemical Vapor Deposition System.

Manufacturer: Thomas Swan & Co., Ltd., United Kingdom.

Intended Use: See notice at 55 FR 50857, December 11, 1990.

Reasons: The foreign instrument provides: (1) In situ monitoring of crystal growth, (2) a horizontal reactor cell with stationary susceptor for uniform growth, (3) double dilution on all dopant lines and (4) epison composition monitoring capability.

Advice Submitted by: National Institute of Standards and Technology, April 15, 1991.

The National Institute of Health and National Institutes of Standards and Technology advise that (1) the capabilities of each of the foreign instruments described above are pertinent to each applicant's intended purpose and (2) they know of no domestic instrument or apparatus of equivalent scientific value for the intended use of each instrument.

We know of no other instrument or apparatus being manufactured in the United States which is of equivalent scientific value to any of the foreign instruments.

Frank W. Creel,

Director, Statutory Import Programs Staff.

[FR Doc. 91-13139 Filed 6-3-91; 8:45 am]

BILLING CODE 3510-DS-M

University of Massachusetts Medical Center; Decision on Application for Duty-Free Entry of Scientific Instrument

This decision is made pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897; 15 CFR 301). Related records can be viewed between 8:30 a.m. and 5 p.m. in room 4204, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, DC.

Docket Number: 90-210.

Applicant: University of Massachusetts Medical Center, Worcester, MA 01655.

Instrument: Microvolume Rapid Kinetics Accessory, Model SFA-12M with Pneumatic Drive Attachment and Trigger Unit.

Manufacturer: Hi-Tech Scientific, United Kingdom.

Intended Use: See notice at 55 FR 51752, December 17, 1990.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign instrument, for such purposes as this instrument is intended to be used, was being manufactured in the United States at the time the foreign instrument was ordered, October 22, 1990.

Reasons: The foreign article rapidly mixes and delivers fluid reactants directly to the observation cell of an existing spectrometer or spectrophotometer. The National Institutes of Health advises in its memorandum dated March 27, 1991, that (1) the capability of the foreign instrument described above is pertinent to the applicant's intended purpose and (2) it knows of no instrument or apparatus of equivalent scientific value to the foreign instrument for the applicant's intended use which was being manufactured in the United States at the time the foreign instrument was ordered.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign instrument, for such purposes as this instrument is intended to be used, which was being manufactured in the United States at the time the foreign instrument was ordered.

Frank W. Creel,

Director, Statutory Import Programs Staff.

[FR Doc. 91-13140 Filed 6-3-91; 8:45 am]

BILLING CODE 3510-DS-M

Applications for Duty-free Entry of Scientific Instruments

Pursuant to section 6(c) of the Educational, Scientific and Cultural Materials Importation Act of 1966 (Pub. L. 89-651; 80 Stat. 897; 15 CFR part 301), we invite comments on the question of whether instruments of equivalent scientific value, for the purposes for which the instruments shown below are intended to be used, are being manufactured in the United States.

Comments must comply with subsections 301.5(a) (3) and (4) of the regulations and be filed within 20 days with the Statutory Import Programs Staff, U.S. Department of Commerce, Washington, DC 20230. Applications may be examined between 8:30 a.m. and 5 p.m. in room 4204, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC.

Docket Number: 91-070.

Applicant: Washington University School of Medicine, 660 South Euclid Avenue, Box 8228, St. Louis, MO 63110.

Instrument: Electron Microscope, Model EM902/PC.

Manufacturer: Carl Zeiss, West Germany.

Intended Use: The instrument will be used for the following purposes:

- (1) To image the atomic elements that compose a biological sample.
- (2) To increase the clarity of images of thick sections or whole-mounted cells,
- (3) To increase the contrast of images of extremely thin and/or unstained biological samples, and
- (4) To improve the images of carbon/platinum replicas of freeze-etched samples.

Application Received by Commissioner of Customs: May 9, 1991.

Docket Number: 91-071.

Applicant: Wayne State University, 5950 Cass Avenue, Detroit, MI 48202.

Instrument: Mass Spectrometer, Series II.

Manufacturer: VG Isogas, United Kingdom.

Intended Use: The instrument will be used to determine enrichment in oxygen 18, nitrogen 15, carbon 13 and deuterium in biological fluids and tissue samples. Experiments will involve metabolic studies in humans and animals, including metabolic balances, estimations of body composition, studies of metabolic pathways, determinations of energy expenditures.

Application Received by Commissioner of Customs: May 9, 1991.

Docket Number: 91-072.

Applicant: The University of Michigan, Department of Engineering,

1301 Beal Avenue, Ann Arbor, MI 48109-2122.

Instrument: Fourier Transform Interferometer.

Manufacturer: Bomem, Canada.

Intended Use: The instrument will be used in research for characterization of far infrared dielectric properties of planetary ices and for measurement of minor gases in the Earth's atmosphere. In addition, the instrument will be used to train graduate students in the methods of FTIR measurements.

Application Received by Commissioner of Customs: May 9, 1991.

Docket Number: 91-073.

Applicant: Brookhaven National Laboratory, Upton, NY 11973.

Instrument: Photoelectron Spectrometer.

Manufacturer: VSW, United Kingdom.

Intended Use: The instrument will be used to investigate complex surface intermediates that are important in catalysis and adhesion. The materials to be investigated are molecules of organic compounds (hydrocarbons, sulfur and nitrogen derivatives, oxygenates) absorbed on single crystals, such as silver, platinum, molybdenum, ruthenium and metal oxides.

Application Received by Commissioner of Customs: May 9, 1991.

Docket Number: 91-074.

Applicant: University of Maine, Department of Geological Sciences, Sawyer Environmental Research Center, Orono, ME 04469.

Instrument: Isoprep 18 Equilibrium System, Model PS/003.

Manufacturer: VG Isotech Ltd., United Kingdom.

Intended Use: The instrument will be used for studies of organic and inorganic carbonates, natural surface and ground waters, terrestrial and marine organic matter, igneous rocks and metamorphic rocks. Gases such as H₂, N₂, CO₂, O₂, Ar, SO₂, and SF₆, will be extracted from these materials for analysis. In addition the instrument will be used for educational purposes in the courses: Isotope Geology, Physical Mechanisms of Climate Change and Stable Isotope Geology to train students in state-of-the-art techniques and theory in light stable-isotope mass spectrometry.

Application Received by Commissioner of Customs: May 13, 1991.

Docket Number: 91-075.

Applicant: Washington State University, Department of Chemistry, Pullman, WA 99164-4630.

Instrument: Low Temperature Rapid Mixing Accessory.

Manufacturer: Hi-Tech Scientific Ltd., United Kingdom.

Intended Use: The instrument will be used to study reactions of inorganic and organometallic molecules in solution at low and varied temperature. Typically, the reactions involve colored compounds containing ions of elements such as cobalt, iron, chromium, manganese, nickel and copper. The experiments to be conducted involve rapid mixing of two solutions, each containing one of the reactants. The progress of the reaction is then followed as a function of time by monitoring the accompanying color change. Such experiments will be repeated at different temperatures in order to investigate the effect of temperature variation on the reaction rates.

Application Received by
Commissioner of Customs: May 13, 1991.
Frank W. Creel,
Director, Statutory Import Programs Staff.
[FR Doc. 91-13141 Filed 6-3-91; 8:45 am]
BILLING CODE 3510-DS-M

National Oceanic and Atmospheric Administration

South Atlantic Fishery Management Council; Wreckfish Limited Entry Public Hearings; Correction

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

ACTION: Notice of public hearings and request for comments; correction.

SUMMARY: This notice is being issued to correct information in the "DATES" heading of the notice of public hearings for proposed Amendment 5 to the Snapper-Grouper Fishery Management Plan (wreckfish limited entry), which was published May 22, 1991 (56 FR 23551). All other information, as published, remains the same.

FOR FURTHER INFORMATION CONTACT: Carrie R.F. Knight, Public Information Officer, South Atlantic Fishery Management Council, 803-571-3266.

In FR Doc. 91-12066, beginning on page 23551, in the issue of May 22, 1991, make the following correction:

On page 23551, in the third column under the "DATES" heading, entry 1, the city and state should read Wrightsville, North Carolina.

Dated: May 29, 1991.

Joe P. Clem,
Acting Director, Office of Fisheries
Conservation and Management, National
Marine Fisheries Service.
[FR Doc. 91-13142 Filed 6-3-91; 8:45 am]
BILLING CODE 3510-22-M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Adjustment of Import Limits for Certain Cotton and Wool Textile Products Produced or Manufactured in Hungary

May 29, 1991.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs adjusting limits.

EFFECTIVE DATE: June 5, 1991.

FOR FURTHER INFORMATION CONTACT: Naomi Freeman, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 377-4212. For information on the quota status of these limits, refer to the Quota Status Reports posted on the bulletin boards of each Customs port or call (202) 566-5810. For information on embargoes and quota re-openings, call (202) 377-3715.

SUPPLEMENTARY INFORMATION:

Authority: Executive Order 11651 of March 3, 1972, as amended; section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854).

The current limits for certain categories are being adjusted, variously, for swing, carryover and recrediting of unused carryforward.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see Federal Register notice 55 FR 50756, published on December 10, 1990). Also see 55 FR 42623, published on October 22, 1990.

The letter to the Commissioner of Customs and the actions taken pursuant to it are not designed to implement all of the provisions of the bilateral agreement, but are designed to assist only in the implementation of certain of its provisions.

Auggie D. Tantillo,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

May 29, 1991.

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229.

Dear Commissioner: This directive amends, but does not cancel, the directive issued to you on October 16, 1990, by the Chairman, Committee for the Implementation of Textile

Agreements. That directive concerns imports of certain cotton, wool and man-made fiber textile products, produced or manufactured in Hungary and exported during the twelve-month period which began on January 1, 1991 and extends through December 31, 1991.

Effective on June 5, 1991, you are directed to amend the directive dated October 16, 1990 to adjust the limits for the following categories, as provided under the terms of the current bilateral agreement between the Governments of the United States and the Republic of Hungary:

Category	Adjusted twelve-month limit ¹
300/301.....	1,499,154 kilograms.
313.....	13,083,633 square meters.
410.....	956,224 square meters.
433.....	9,590 dozen.
434.....	8,962 dozen.
435.....	15,881 dozen.
442.....	21,512 dozen.
443.....	101,096 numbers.
444.....	27,770 numbers.
448.....	23,826 dozen.

¹ The limits have not been adjusted to account for any imports exported after December 31, 1990.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

Auggie D. Tantillo,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 91-13133 Filed 6-3-91; 8:45 am]

BILLING CODE 3510-DR-F

DEPARTMENT OF DEFENSE

Public Information Collection Requirement Submitted to OMB for Review

ACTION: Notice.

The Department of Defense has submitted to OMB for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35).

Title, Applicable Form, and Applicable OMB Control Number: Payment of Funeral and/or Interment Expenses, DD Form 1375 and DD Form 2065, OMB Control Number 0704-0030.

Type of Request: Reinstatement.
Average Burden Hours/Minutes per Response: 1813 hours.

Responses per Respondent: 1.
Number of Respondents: 2,200.
Annual Burden Hours: 399.
Annual Responses: 2,200.

Needs and Uses: DD Form 1375 is an application to the government for reimbursement of funeral/interment

expenses. DD Form 2065 is the instrument that notifies the government of disposition instruction and acknowledges costs for services and supplies for the remains.

Affected Public: Individuals or households.

Frequency: On occasion.

Respondent's Obligation: Required to obtain or retain a benefit.

OMB Desk Officer: Mr. Edward C. Springer. Written comments and recommendations on the proposed information collection should be sent to Mr. Springer at the Office of Management and Budget, Desk Officer for DoD, room 3235, New Executive Office Building, Washington, DC 20503.

DOD Clearance Officer: Mr. William P. Pearce. Written requests for copies of the information collection proposal should be sent to Mr. Pearce, WHS/DIOR, 1215 Jefferson Davis Highway, suite 1204, Arlington, Virginia 22202-4302.

Dated: May 29, 1991.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 91-13076 Filed 6-3-91; 8:45 am]

BILLING CODE 3810-01-M

Public Information Collection Requirement Submitted to OMB for Review

ACTION: Notice.

The Department of Defense has submitted to OMB for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35).

Title, Applicable Form, and Applicable OMB Control Number: Record of Preparation and Disposition of Remains (within CONUS), DD Form 2063, OMB Control Number 0702-0014.

Type of Request: Reinstatement.

Average Burden Hours/Minutes per Response: 15 minutes.

Responses per Respondent: 1.

Number of Respondents: 3,125.

Annual Burden Hours: 781.

Annual Responses: 3,125.

Needs and Uses: DD Form 2063 provides a record of technical information regarding condition of remains before and after preparation, techniques used in embalming, and essential fiscal data. DD Form 2063 is only used for those cases where mortuary supplies and services are obtained on a contractual basis.

Affected Public: Businesses or other for-profit.

Frequency: On occasion.

Respondent's Obligation: Required to obtain or retain a benefit.

OMB Desk Officer: Mr. Edward C. Springer. Written comments and recommendations on the proposed information collection should be sent to Mr. Springer at the Office of Management and Budget, Desk Officer for DoD, room 3235, New Executive Office Building, Washington, DC 20503.

DOD Clearance Officer: Mr. William P. Pearce. Written requests for copies of the information collection proposal should be sent to Mr. Pearce, WHS/DIOR, 1215 Jefferson Davis Highway, suite 1204, Arlington, Virginia 22202-4302.

Dated: May 29, 1991.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 91-13075 Filed 6-3-91; 8:45 am]

BILLING CODE 3810-10-M

Office of the Secretary

Availability of Change 1 to DoD 5025.1-I, "DoD Directives System Annual Index"

AGENCY: Office of the Secretary, DoD.

ACTION: Notice of availability.

SUMMARY: This document is to inform the public and Government Agencies of the availability of Change 1 to DoD 5025.1-I, "DoD Directives System Annual Index". This Change 1 document replaces the basic Index dated January 1991. Interested persons may obtain copies, at cost, from the National Technical Information Service (NTIS), 5285 Port Royal Road, Springfield, VA 22161, telephone 703-487-4650. The NTIS accession number is PB 91 959517.

FOR FURTHER INFORMATION CONTACT: Ms. Patricia Toppings, telephone 703-697-4111.

Dated: May 29, 1991.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 91-13081 Filed 6-3-91; 8:45 am]

BILLING CODE 3810-01-M

Special Operations Policy Advisory Group; Meeting

The Special Operations Policy Advisory Group (SOPAG) will meet on 13 June 1991 in the Pentagon, Arlington, Virginia to discuss sensitive, classified topics.

The mission of the SOPAG is to advise the Office of the Secretary of Defense on key policy issues related to

the development and maintenance of effective Special Operations Forces.

In accordance with section 10(d) of Public Law 92-463, the "Federal Advisory Committee Act," and section 552b(c)(1) of title 5, United States Code, this meeting will be closed to the public.

Dated: May 29, 1991.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 91-13079 Filed 6-3-91; 8:45 am]

BILLING CODE 3810-01-M

Strategic Defense Initiative Advisory Committee (SDIAC)

ACTION: Notice of advisory committee meeting.

SUMMARY: The SDIAC will meet in closed session in Washington, DC, on June 13-14, 1991.

The mission of the SDIAC is to advise the Secretary of Defense, Strategic Defense Initiative Organization on scientific and technical matters as they affect the perceived needs of the Department of Defense. At the meetings on June 13-14, 1991, the committee will discuss the status of the Architecture Integration Study.

In accordance with section 10(d) the Federal Advisory Committee Act, Public Law No. 92-463, as amended (5 U.S.C., app II, (1982)), it has been determined that this SDIAC meeting concerns matters listed in 5 U.S.C. 552(c)(1) (1982), and that accordingly this meeting will be closed to the public.

Dated: May 29, 1991.

Linda M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 91-3080 Filed 6-3-91; 8:45 am]

BILLING CODE 3810-01-M

Department of the Army

Army Science Board; Open Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), announcement is made of the following committee meeting:

Name of the Committee: Army Science Board (ASB).

Dates of Meeting: 10-11 July 1991.

Time: 0800-1600 hours each day.

Place: Pentagon, Washington, DC.

Agenda: The Army Science Board (ASB) 1991 Summer Study on Army Simulation Strategy will meet for discussions focused on technical and programmatic subjects as regards simulation and modeling. The meeting will be open to the public. Any

interested person may attend, appear before, or file statements with the committee at the time and in the manner permitted by the committee. The ASB Administrative Officer, Sally Warner, may be contacted for further information at (703) 695-0781/0782.

Sally A. Warner,
Administrative Officer, Army Science Board.
[FR Doc. 91-13071 Filed 6-3-91; 8:45 am]

BILLING CODE 3710-8-M

Army Science Board; Open Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), announcement is made of the following committee meeting:

Name of the Committee: Army Science Board (ASB).

Dates of Meeting: 24 June 1991.

Time: 0800-1600 hours.

Place: General Dynamics Land Systems, Warren, MI, Tank Automotive Command, Warren, MI.

Agenda: The Army Science Board (ASB) 1991 Summer Study on Army Simulation Strategy will hold a one-day meeting. The meeting will include technical programmatic briefing and site visits of PM Abrams Simulations/Simulators in the area of modeling and simulation. The meeting will be open to the public. Any interested person may attend, appear before, or file statements with the committee at the time and in the manner permitted by the committee. The ASB Administrative Officer, Sally Warner, may be contacted for further information (703) 695-0781/0782.

Sally A. Warner,
Administrative Officer, Army Science Board.
[FR Doc. 91-13070 Filed 6-3-91; 8:45 am]

BILLING CODE 3710-8-M

Army Science Board; Open Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), announcement is made of the following committee meeting:

Name of the Committee: Army Science Board (ASB).

Dates of Meeting: 24 June 1991.

Time: 0900-1600 hours.

Place: Pentagon, Washington, DC.

Agenda: The Army Science Board (ASB) Ad Hoc Subgroup on Improving the Quality of Science and Engineering in the Army will meet with various DOD and DA Staff members involved in the establishment of the Acquisition Corps. The meeting will be open to the public. Any interested person may attend, appear before, or file statements with

the committee at the time and in the manner permitted by the committee. The ASB Administrative Officer, Sally Warner, may be contacted for further information at (703) 695-0781/0782.

Sally A. Warner,
Administrative Officer, Army Science Board.
[FR Doc. 91-13069 Filed 6-3-91; 8:45 am]

BILLING CODE 3710-8-M

DEPARTMENT OF EDUCATION

Proposed Information Collection Requests

AGENCY: Department of Education.

ACTION: Notice of proposed information collection requests.

SUMMARY: The Director, Office of Information Resources Management, invites comments on proposed information collection requests as required by the Paperwork Reduction Act of 1980.

DATES: An expedited review has been requested in accordance with the Act, since allowing for the normal review period would adversely affect the public interest. Approval by the Office of Management and Budget (OMB) has been requested by June 21, 1991.

ADDRESSES: Written comments should be addressed to the Office of Information and Regulatory Affairs, Attention: Dan Chenok, Desk Officer, Department of Education, Office of Management and Budget, 726 Jackson Place, NW., room 3208, New Executive Office Building, Washington, DC 20503. Requests for copies of the proposed information collection request should be addressed to Mary P. Liggett, Department of Education, 400 Maryland Avenue, SW., room 5624, Regional Office Building 3, Washington, DC 20202.

FOR FURTHER INFORMATION CONTACT: Mary P. Liggett, (202) 708-5174.

SUPPLEMENTARY INFORMATION: Section 3517 of the Paperwork Reduction Act of 1980 (44 U.S.C. chapter 3517) requires that the Director of OMB provide interested Federal agencies and persons an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violates State or

Federal law, or substantially interfere with any agency's ability to perform its statutory obligations.

The Director, Office of Information Resources Management, publishes this notice with the attached proposed information collection request prior to submission of this request to OMB. This notice contains the following information: (1) Type of review requested, e.g., expedited; (2) Title; (3) Abstract; (4) Additional Information; (5) Frequency of collection; (6) Affected public; and (7) Reporting and/or Recordkeeping burden. Because an expedited review is requested, a description of the information to be collected is also included as an attachment to this notice.

Dated: May 29, 1991.

Mary P. Liggett,

Acting Director, Office of Information, Resources Management.

Office of Bilingual Education and Minority Languages Affairs

Type of Review: Expedited.

Title: Application for Grants under the Bilingual Education Program: Evaluation Assistance Centers.

Abstracts: This form will be used by institutions of higher education to apply funding under the Bilingual Education Program. The Department will use the information to make grant awards.

Additional Information: An expedited review is requested in order to award grants under the Bilingual Education Program in FY 1991. Failure to collect this information would jeopardize the FY 1991 funds allocated for Evaluation Assistance Centers. This application contains the Intergovernmental Review of Federal Programs and State Single Points of Contact, Standard Form 424 (Application for Federal Assistance), Standard Form 424A Budget Information Sheet, Standard Form 424B (Assurances), Lobbying Certifications, Debarment Certifications, Drug-Free Certifications, and Lobbying Activities Disclosures.

Frequency: Annually.

Affected Public: Non-profit institutions.

Reporting Burden: Responses: 10.

Burden Hours: 81.7.

Recordkeeping Burden:

Recordkeepers: 0.

Burden Hours: 0.

BILLING CODE 4000-1-M



D

UNITED STATES DEPARTMENT OF EDUCATION
OFFICE OF THE DIRECTOR FOR BILINGUAL EDUCATION
AND MINORITY LANGUAGES AFFAIRS

Dear Colleague:

The materials in this package are for your use in preparing a grant application for assistance under the Evaluation Assistance Centers program as authorized under the Bilingual Education Act (20 U.S.C. 3304)

The Department plans to award grants for two Evaluation Assistance Centers for a three-year period beginning October 1, 1991. The primary purpose of these support centers is to provide technical assistance to local and State educational agencies regarding methods and techniques for identifying the educational needs and competencies of limited English proficient persons and for assessing the educational progress achieved through programs assisted under the Bilingual Education Act.

Specific information about the grant competition is provided in the application notice published in the Federal Register and included in this package. Please note the sections pertaining to applicant eligibility, service areas, selection criteria, and deadline for transmittal of applications.

Please note also the instructions for transmittal of applications. One original and two copies of the application must be submitted to the Department's Application Control Center. Applications are not to be mailed to the Office of Bilingual Education and Minority Languages Affairs (OBEMLA).

If you have any questions about application requirements, you should contact the OBEMLA program officer specified in the application notice.

Sincerely,

Rita Esquivel
Director

T

APPLICATION FORMS AND INSTRUCTIONS

D Public reporting burden for this collection of information is estimated to average 81.7 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. You may send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the U.S. Department of Education, Information Management and Compliance Division, Washington, D.C. 20202-4651; and to the Office of Management and Budget, Paperwork Reduction Project 1885-0003, Washington, D.C. 20503.

IR
Application for Federal Assistance (SF-424)

This form is the standard facesheet that must be completed by all applicants in accordance with the accompanying instructions.

official.

Disclosure of Lobbying Activities

This form must be completed if applicable.

Certification Signatures for Bilingual Education Joint Application

This form must be completed by each applicant in a joint application.

A
Proposal Narrative for New Applications

1. Your proposal narrative should appear in your application immediately after the application forms.
2. Include at the beginning of your narrative an abstract of your proposal.
3. Address the selection criteria in exactly the same order in which they appear in section 75.210(b) of the Education Department General Administrative Regulations (EDGAR). The selection criteria should be used as an outline for your narrative. This format is important for a fair evaluation and rating of your proposal by the review panel.
4. Section 75.210(c) specifies that 15

Budget Information--Non-Construction Programs

The instruction sheet for this form is attached to the form.

Assurances--Non-Construction Programs

This form must be signed by the authorized certifying official.

Certifications Regarding Lobbying; Debarment, Suspension and Other Responsibility Matters; and Drug-Free Workplace Requirements

This form must be signed by the authorized certifying

additional points are distributed among the selection criteria. Refer to the application notice for the distribution of the 15 additional points for this competition.

5. Do not include extensive vitae in addressing the selection criterion on quality of personnel. To reduce unnecessary paperwork and expedite the application review process, you should use the format of the Position Description Form contained in this application package for describing the responsibilities and qualifications for proposed staff positions and, if known, of proposed staff members.
6. Do not include appendices or letters of support.
7. Number the pages of your narrative and include a table of contents.
8. The Secretary of Education strongly requests the applicant to limit the application narrative to no more than 45 double-spaced, typed pages (on one side only), although the Secretary will consider applications of greater length. The Department anticipates that successful applications under this program generally will meet this page limit.

CERTIFICATION SIGNATURES FOR BILINGUAL EDUCATION JOINT APPLICATION

EACH OF THE FOLLOWING APPLICANTS CERTIFIES THAT TO THE BEST OF HIS KNOWLEDGE AND BELIEF DATA IN THIS APPLICATION ARE TRUE AND CORRECT. THE DOCUMENT HAS BEEN DULY AUTHORIZED BY THE GOVERNING BODY OF THE APPLICANTS AND THE APPLICANTS WILL COMPLY WITH THE ATTACHED ASSURANCES IF THE ASSISTANCE IS APPROVED.

	AUTHORIZED REPRESENTATIVE			TELEPHONE			NAME OF LEA, IHE, SEA OR PRIVATE NONPROFIT ORGANIZATION
	TYPED OR PRINTED NAME	TITLE	SIGNATURE	AREA CODE	NUMBER	EXT.	
1.							
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D

POSITION DESCRIPTION

(This form is to be used in accordance with Item 5 of the instructions under Proposal Narrative for New Applications.)

(1) Position:

(2) Name (if known):

R

(3) Description of duties and responsibilities of the position:

A

(4) Qualifications required for the position:

F

(5) Qualifications of person named above:

T

Proposed Information Collection Requests**AGENCY:** Department of Education.**ACTION:** Notice of proposed information collection requests.

SUMMARY: The Director, Office of Information Resources Management, invites comments on the proposed information collection requests as required by the Paperwork Reduction Act of 1980.

DATES: Interested persons are invited to submit comments on or before July 5, 1991.

ADDRESSES: Written comments should be addressed to the Office of Information and Regulatory Affairs, Attention: Dan Chenok: Desk Officer, Department of Education, Office of Management and Budget, 726 Jackson Place NW., room 3208, New Executive Office Building, Washington, DC 20503. Requests for copies of the proposed information collection requests should be addressed to Mary P. Liggett, Department of Education, 400 Maryland Avenue SW., room 5624, Regional Office Building 3, Washington, DC 20202.

FOR FURTHER INFORMATION CONTACT: Mary P. Liggett, (202) 708-5174.

SUPPLEMENTARY INFORMATION: Section 3517 of the Paperwork Reduction Act of 1980 (44 U.S.C. chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations.

The Acting Director, Office of Information Resources Management, publishes this notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, e.g., new, revision, extension, existing or reinstatement; (2) Title; (3) Frequency of collection; (4) The affected public; (5) Reporting burden; and/or (6) Recordkeeping burden; and (7) Abstract. OMB invites public comment at the address specified above. Copies of the requests are available from Mary P. Liggett at the address specified above.

Dated: May 29, 1991.

Mary P. Liggett,
Acting Director, Office of Information
Resources Management.

Office of Educational Research and Improvement*Type of Review:* New.

Title: Application for the National Assessment of Educational Progress Data Reporting Program.

Frequency: Annually.

Affected Public: Business or other for-profit; Non-profit institutions.

Reporting Burden: Responses: 15.*Burden Hours:* 360.*Recordkeeping Burden:**Recordkeepers:* 0.*Burden Hours:* 0.

Abstract: This form will be used by State educational agencies to apply for funding under the National Assessment of Educational Progress Data Reporting Program. The Department uses the information to make grant awards.

Office of Planning, Budget and Evaluation*Type of Review:* New.

Title: Evaluation of Student Support Services Program.

Frequency: One-time.

Affected Public: Individuals or households; Non-profit institutions.

Reporting Burden: Responses: 508.*Burden Hours:* 5358.*Recordkeeping Burden:**Recordkeepers:* 0.*Burden Hours:* 0.

Abstract: The purpose of this study is to examine the effectiveness of the Student Support Services Program. The Department uses the information to report to Congress.

[FR Doc. 91-13087 Filed 6-3-91; 8:45 am]

BILLING CODE 4000-01-M

DEPARTMENT OF ENERGY**Federal Energy Regulatory Commission**

[Project Nos. 199-058, et al.]

Hydroelectric Applications (South Carolina Public Service Authority, et al.); Applications

Take notice that the following hydroelectric applications have been filed with the Commission and are available for public inspection:

1 a. *Type of Application:* Proposed Change of Land Use Classification.

b. *Project No.:* 199-058.c. *Date Filed:* April 22, 1991.

d. *Applicant:* South Carolina Public Service Authority.

e. *Name of Project:* Santee-Cooper Project.

f. *Location:* Clarendon County, South Carolina.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)-825(r).

h. *Applicant Contact:* Mr. Robert F. Petracca, Vice President, Property and Transportation, South Carolina Public Service Authority, One Riverwood Drive, Moncks Corner, SC 29148, (803) 761-4014.

i. *FERC Contact:* Mr. Dan Hayes, (202) 219-2660.

j. *Comment Date:* July 10, 1991.

k. *Description of Project:* South Carolina Public Service Authority (licensee) proposes to change land use classifications at Potato Creek on the Lake Marion development to allow construction of a residential resort (Summertown Plantation). The proposal would include relocating and exchanging current land use designations, including relocation of lands designated as public recreation and natural areas.

l. *This notice also consists of the following standard paragraphs:* B, C, and D2.

2 a. *Type of Application:* Amendment of License.

b. *Project No.:* 1904-008.

c. *Date Filed:* February 22, 1991.

d. *Applicant:* New England Power Company.

e. *Name of Project:* Vernon Project.

f. *Location:* The project is located on the Connecticut River in Windham County, Vermont and Cheshire County, New Hampshire.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)-825(r).

h. *Applicant Contact:* Mr. George P. Sasdi, New England Power Company, 25 Research Drive, Westborough, MA 01582, (508) 366-9011.

i. *FERC Contact:* Kenneth Fearon, (202) 219-2657.

j. *Comment Date:* June 27, 1991.

k. *Description of Amendment:* The amendment proposes to replace 4 existing 2,000-kW turbine/generator units (Units No. 5 through 8) with 2 new 14 MW turbine/generators. The proposed change would increase the project's total installed capacity from the authorized 24.4 MW to 44.4 MW and increase the plant's maximum hydraulic capacity from 15,530 cfs to 17,860 cfs. All interior electrical equipment connecting the remaining generating units (Units 1 through 4, 9 and 10) will be replaced with new modern control systems and a new control room. The amendment also proposes to install two new outdoor 13.8 to 69-kV step up transformers located at the south end of the 69-kV switchyard.

replace the existing interior 69-kV bare conductor overhead buses with an underground 13.8-kV interconnection to the new step up transformers, and install two new draft tube extensions, for the two new 14 MW units, projecting downstream of the fish ladder's collection channel.

1. This notice also consists of the following standard paragraphs: B, C, and D2.

3. a. Type of Application: Amendment of License.

b. Project No.: 2100-044.

c. Date Filed: April 11, 1991.

d. Applicant: California Department of Water Resources.

e. Name of Project: Feather River Project.

f. Location: Feather River in Butte County, California.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)-825(r).

h. Applicant Contact: Mr. Mike Ford, California Department of Water Resources, 1416 9th Street, Sacramento, CA 95802, (916) 324-6164.

i. FERC Contact: Jon Cofrancesco, (202) 219-2650.

j. Comment Date: July 1, 1991.

k. Description of Amendment: The California Department of Water Resources, licensee for the Feather River Project, proposes to temporarily close the facilities of the project's Loafer Creek recreation area. The Loafer Creek recreation area contains several group and family campsites, a day-use and swim beach area, boat launching ramps, and parking facilities. The licensee states that current low lake levels at the Oroville reservoir will severely impact camping and day-use activities of Loafer Creek and that past experience has shown that Loafer Creek receives very limited use during periods of low water. Further, the licensee states that the camping facilities of the project's Bidwell Canyon recreation area will remain open. Finally, the licensee states that given this information, it expects camping attendance at the project to be 25 percent of normal and the closure of Loafer Creek to be a minimal inconvenience for the camping public (a copy of the application may be obtained by interested parties directly from the licensee).

1. This notice also consists of the following standard paragraphs: B, C, and D2.

3. Type of Application: Amendment to License.

b. Project No.: 2409-035.

c. Date Filed: April 22, 1991.

d. Applicant: Calaveras County Water District.

e. Name of Project: North Fork Stanislaus River Project.

f. Location: The Project is located on the North Fork Stanislaus River, Stanislaus River, Highland Creek, Beaver Creek, Silver Creek, and Duck Creek in the Counties of Calaveras, Alpine, and Tuolumne, California.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)-825(r).

h. Applicant Contact: Mr. Steve Felte, General Manager, Calaveras County Water District, P.O. Box 846, San Andreas, CA 95249, (209) 754-3543.

i. FERC Contact: Kenneth Fearon (202) 219-2657.

j. Comment Date: July 1, 1991.

k. Description of Amendment: The licensee proposes to install a 300-kW microturbine on the low level outlet structure located at McKays Point Dam. The microturbine would use the required by-pass flows, which range from 16.5 cfs to 25 cfs, to generate an estimated 2,630,000 kWh of electricity annually.

1. This notice also consists of the following standard paragraphs: B, C, and D2.

5 a. Type of Application: Amendment of Recreation Plan and Revision of Project Boundary.

b. Project No.: 2535-001.

c. Date Filed: September 17, 1990.

d. Applicant: South Carolina Electric and Gas Company.

e. Name of Project: Stevens Creek Project.

f. Location: Columbia County, Georgia and Edgefield and McCormick Counties, South Carolina.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)-825(r).

h. Applicant Contact: Mr. Randolph R. Mahan, Assistant General Counsel, South Carolina Electric and Gas Company, P.O. Box 760, Columbia, SC 29218, (803) 748-3538.

i. FERC Contact: Mr. Dan Hayes, (202) 219-2660.

j. Comment Date: July 10, 1991.

k. Description of Project: South Carolina Electric and Gas Company (licensee) proposes to exchange approximately 91.86 acres of project property, including approximately 11 acres approved for recreation development, for an area of approximately 10 acres owned by Canal Industries. The licensee states that the 10-acre parcel is better suited for recreational development than the 91.86-acre parcel, which the licensee states is low lying and prone to flooding.

1. This notice also consists of the following standard paragraphs: B, C, and D2.

6 a. Type of Application: License Subsequent.

b. Project No.: 2711-001.

c. Date Filed: March 27, 1991.

d. Applicant: Northern States Power Company.

e. Name of Project: Trego Hydro Project.

f. Location: On the Namekagan River, Washington County, Wisconsin.

g. Filed Pursuant to: Federal Power Act 16 U.S.C. 791(a)-825(r).

h. Applicant Contact: Mr. Anthony G. Schuster, Northern States Power Company, 100 North Barstow Street, P.O. Box 8, Eau Claire, WI 54702, (715) 839-2401.

i. FERC Contact: Mary C. Golato (202) 219-2804.

j. Comment Date: July 24, 1991.

k. Description of Project: The license project consists of the following facilities: (1) A northeastern earth embankment section 380 feet long and about 30 feet in maximum height; (2) a southwestern earth embankment section 110 feet long and about 25 feet in maximum height; (3) a reinforced concrete hollow gravity spillway structure of the Ambursen type, 92 feet long, 53 feet wide at the base, and 26 feet high, surmounted with 3 tainter gates, each 25.5 feet long and 10 feet high, and a 6-foot-wide trashgate and sluiceway; (4) a reservoir about 6 miles long, with a surface area of 470 acres and a storage capacity of 4,700 acre-feet; (5) a reinforced concrete, steel and brick powerhouse 59.5 feet long, 58 feet wide, and 74 feet high above the foundation, located adjacent to the southwest end of the spillway structure; (6) generating equipment consisting of two open flume, vertical-axis Francis turbine-generator units, No. 1 rated 700 kilowatts (kW), and No. 2 rated 500 kW, for a total capacity of 1,200 kW; (7) a concrete stilling basin apron about 53 feet long and 150 feet wide; (8) transmission facilities; and (9) appurtenant facilities. The applicant proposes no new construction. The dam is owned by the Northern States Power Company. The average annual generation is 7,575,893 kilowatthours.

1. This notice also consists of the following standard paragraphs: B, C, and D1.

7 a. Type of Application: Major License.

b. Project No.: 10416-003.

c. Date filed: September 28, 1990.

d. Applicant: Washington Hydro Development Company.

e. Name of Project: Anderson Creek Hydroelectric.

f. Location: On Anderson and 4 Mile Creeks, within Mt. Baker-Snoqualmie National Forest in Whatcom County, Washington, Sections 21, 29, and 33, Township 37 North, Range 9 East, Willamette Meridian.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)-825(r).

h. Applicant Contact: Mr. Michael S. Wright, Permit/Engineering Inc., 1300-114th Ave. SE, #220, Bellevue, WA 98004, (206) 451-7371.

i. FERC Contact: Mr. James Hunter, (202) 219-2839.

j. Comment Date: July 17, 1991.

k. Description of Project: The proposed project would consist of: (1) A 10-foot-high, 25-foot-long reinforced concrete diversion weir impounding water at elevation 2,716 feet and a 17-foot-wide, 28-foot-long intake structure on the left bank of Anderson Creek with trash racks, fish screens, a fish return pipe, and a gated penstock inlet; (2) a 26-inch-diameter, 8,150-foot-long steel penstock connecting to a junction box; (3) a 12-foot-high, 25-foot-long reinforced concrete diversion weir impounding water at elevation 2,600 feet and a 17-foot-wide, 20-foot-long intake structure with trash racks, fish screens, a fish return pipe, and a gated penstock inlet on the right bank of 4 Mile Creek; (4) a 18-inch-diameter, 1,300-foot-long steel penstock connecting to the junction box; (5) a 34-inch-diameter, 4,850-foot-long steel penstock from the junction box to; (6) a 34-foot-wide, 40-foot-long reinforced concrete powerhouse containing a 6.25-MW generating unit; (7) a 5-foot-wide tailrace discharging flows over a weir at elevation 838 feet into Anderson Creek; (8) a 3.2-mile-long, 35-kV transmission line connecting to the existing Shannon substation; and (9) approximately 3,900 feet of access roads connecting the powerhouse and the two diversions to an existing road. The project would have an estimated annual output of 23.4 GWh and would cost \$10,311,800 in 1990 dollars.

l. Purpose of Project: Power generated would be sold to a local utility.

m. This notice also consists of the following standard paragraphs: A3, A9, B, and C.

8 a. Type of Application: Minor License.

b. Project No.: 11090-000.

c. Date filed: February 15, 1991.

d. Applicant: Tunbridge Mill Corporation.

e. Name of Project: Tunbridge Mill Project.

f. Location: On the First Branch of the White River, Orange County, Vermont.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)-825(r).

h. Applicant Contact: Mr. Jay Boeri, RR #1, Box 798, Woodstock, VT 05091, (802) 436-2521.

i. FERC Contact: Michael Dees (202) 219-2807.

j. Comment Date: July 5, 1991.

k. Description of Project: The proposed project would consist of: (1) An existing concrete dam 102 feet long and 8.5 feet high and equipped with flashboards two feet high; (2) an existing reservoir with a surface area of 2.5 acres; (3) a proposed penstock 4.5 feet in diameter and 187 feet long; (4) an existing brick and timber powerhouse containing a 100-kW hydropower unit; (5) an existing tailrace 20 feet long; (6) a proposed 7.2-kV buried transmission line 80 feet long; and (7) appurtenant facilities. The estimated annual energy production is 370 MWh. Project energy would be sold to a local utility.

l. This notice also consists of the following standard paragraphs: A3, A9, B, C, and D1.

9 a. Type of Application: Preliminary Permit.

b. Project No.: 11091-000.

c. Date filed: February 20, 1991.

d. Applicant: Bridgeport Hydraulic Company.

e. Name of Project: Aspetuck Tunnel Project.

f. Location: On the Saugatuck and Aspetuck Rivers, in Fairfield County, Connecticut.

g. Filed Pursuant to: Federal Power Act 16 U.S.C. 791(a)-825(r).

h. Applicant Contact: Mr. Glenn Thornhill, Bridgeport Hydraulic Company, 600 Lindley Street, P.O. Box 5243, Bridgeport, CT 06610-5243, (203) 367-6621.

i. FERC Contact: Robert Bell (202) 219-2806.

j. Comment Date: July 15, 1991.

k. Description of Project: The proposed project would consist of: (1) The existing 990-foot-long, 110-foot-high linear concrete gravity Samuel P. Senior Dam; (2) an existing reservoir having a surface area of 868 acres with a storage capacity 42,000 acre-feet, and a normal water surface elevation of 280 feet m.s.l.; (3) an intake structure; (4) an existing 200-foot-long, 4-foot-diameter east iron penstock; (5) a proposed powerhouse containing 1 generating unit with an installed capacity of 200 kW; (6) an existing tailrace; (7) a 1,000-foot-long, 13.8-kV transmission line; and (8) appurtenant facilities. The existing project facilities are owned by the applicant. The applicant estimates the average annual generation would be 1,000,000 kWh. The project energy generated would be sold to a local utility. The estimated cost of studies to be done under the permit would be \$10,000.

l. This notice also consists of the following standard paragraphs: A3, A7, A9, A10, B, C, and D2.

10 a. Type of Application: Preliminary Permit.

b. Project No.: 11095-000.

c. Date filed: February 25, 1991.

d. Applicant: Greenwood Pumped Storage Corporation.

e. Name of Project: Red Rock.

f. Location: On the Lake Rad Rock in Marion County, Iowa.

g. Filed Pursuant to: Federal Power Act 16 U.S.C. 791(a)-825(r).

h. Applicant Contact: Douglas A. Spaulding, 6465 Wayzata Blvd., #660, Minneapolis, MN 55426, (612) 593-5650.

i. FERC Contact: Charles T. Raabe (202) 219-2811.

j. Comment Date: July 5, 1991.

k. Description of Project: The proposed pumped storage project would consist of: (1) An upper reservoir created by a 55-foot-high, 9,500-foot-long earthfill dam having crest elevation 905 feet MSL; (2) a 30-foot-diameter, 50-foot-high intake structure; (3) a 40-foot-diameter, 200-foot-deep vertical shaft; (4) a 40-foot-diameter, 2,000-foot-long lined tunnel; (5) a 350-foot by 400-foot reinforced-concrete powerhouse containing two pump-turbine units rated at 100-MW each operated at a 114 to 150-foot head; (6) a lower reservoir (Lake Red Rock) created by the Corps of Engineers' Red Rock Dam; (7) a 6-mile-long, 161-kV transmission line to Iowa Power's Knoxville Substation; and (8) appurtenant facilities. Lake Rad Rock, an existing reservoir formed by the Corps of Engineers' Red Rock Dam, would be utilized as a lower reservoir.

Applicant estimates that the cost of the studies under the terms of the permit would be \$850,000. Project energy would be purchased from and sold to local utilities.

l. This notice also consists of the following standard paragraphs: A5, A7, A9, A10, B, C, and D2.

11 a. Type of Application: Preliminary Permit.

b. Project No.: 11112-000.

c. Date Filed: March 26, 1991.

d. Applicant: The Dayville Corporation.

e. Name of Project: Dayville North Five Mile River.

f. Location: On the Five Mile River near Killingly in Windham County, Connecticut.

g. Filed Pursuant to: Federal Power Act 16 U.S.C. 791(a)-825(r).

h. Contact Person: Mr. Mark C. Yellin, 628 Farmington Ave., Farmington, CT 06032, (203) 677-9207.

i. FERC Contact: Ms. Julie Bernt, (202) 219-2814.

j. Comment Date: July 24, 1991.

k. Description of Project: The proposed project would consist of: (1)

An exciting 4-foot-high concrete dam owned by The William Prym Company and an existing diversion gate owned by Morgan Whitney, Inc.; (2) a 5-foot-long, 4-foot-diameter penstock; (3) a powerhouse containing one generating unit with a rated capacity of 100 kW; and (4) a 6-mile-long transmission line. The applicant estimates the average annual energy production to be 375,000 kWh and the cost of the work to be performed under the preliminary permit to be \$65,000.

l. Purpose of Project: The power produced would be sold to a local power company.

m. This notice also consists of the following standard paragraphs: A5, A7, A9, A10, B, C and D2.

12 a. Type of Application: Preliminary Permit.

b. Project No.: 11126-000.

c. Date Filed: April 9, 1991.

d. Applicant: Edward Navickis.

e. Name of Project: Bear River Canal.

f. Location: On Pacific Gas & Electric Company's Bear River Canal, in Placer County, California.

g. Filed Pursuant to: Federal Power Act 16 U.S.C. 791(a)-825(r).

h. Applicant Contact: Mr. Edward Navickis, P.O. Box 910, Penn Valley, CA 95946, (916) 432-9226.

i. FERC Contact: Michael Spencer at (202) 219-2846.

j. Comment Date: July 5, 1991.

k. Description of Project: The proposed project would utilize the existing Pacific Gas and Electric Company's Drum Spaulding Project on Bear River Canal and would consist of: (1) an intake structure at elevation 1,760 Feet; (2) a 200-foot-long, 72-inch-diameter penstock; (3) a powerhouse containing a generating unit with a capacity of 235 kW with an estimated average annual generation of 2.0 GWh; (4) a 200-foot-long transmission line.

No new access road will be needed to conduct the studies. The applicant estimates that the cost of the studies to be conducted under the preliminary permit would be \$15,000.

l. Purpose of Project: Project power would be sold.

m. This notice also consists of the following standard paragraphs: A5, A7, A9, A10, B, C and D2.

13 a. Type of Application: Preliminary Permit.

b. Project No.: 11131-000.

c. Date Filed: April 23, 1991.

d. Applicant: S & F Power Company.

e. Name of Project: Palisades Hydroelectric Capacity Addition.

f. Location: At the Bureau of Reclamation's Palisades dam on the South Fork of the Snake River in

Bonneville County, Idaho. T1S, R45E in section 17.

g. Filed Pursuant to: Federal Power Act 16 U.S.C. 791(a)-825(r).

h. Applicant Contact: Mr. Ted S. Sorenson, P.E., S & F Power Company, 550 Linden Drive, Idaho Falls, Idaho 83401, (208) 522-8089.

i. FERC Contact: Mr. Michael Strzelecki, (202) 219-2827.

j. Comment Date: July 19, 1991.

k. Description of Project: The proposed project would utilize the existing Bureau of Reclamation's Palisades dam and would consist of: (1) A 20-foot diameter, 250-foot long penstock extension; (2) a powerhouse containing two 45-megawatt generators located adjacent to existing generating units of the Bureau of Reclamation; (3) a tailrace returning the discharge into the South Fork of the Snake River; (4) a 1/2-mile-long transmission line; and (5) appurtenant facilities.

No new access road will be needed to conduct the studies. The applicant estimates that the cost of the studies to be conducted under the preliminary permit would be \$85,000.

l. This notice also consists of the following standard paragraphs: A5, A7, A9, A10, B, C and D2.

14 a. Type of Application: Preliminary Permit.

b. Project No.: 11140.

c. Date Filed: May 3, 1991.

d. Applicant: Greenwood Pumped Storage Corporation.

e. Name of Project: Red Rock.

f. Location: On the Des Moines River in Marion County, Iowa.

g. Filed Pursuant to: Federal Power Act 16 U.S.C. 791(a)-825(r).

h. Applicant Contact: Mr. Douglas A. Spaulding, 6465 Wayzata Blvd., #660, Minneapolis, MN 55426, (612) 593-5650.

i. FERC Contact: Charles T. Raabe (202) 219-2811.

j. Comment Date: August 5, 1991.

k. Description of Project: The proposed project would utilize the existing U.S. Army Corps of Engineers' Red Rock Dam and would consist of: (1) A new intake structure; (2) two 21-foot-diameter, 280-foot-long penstocks; (3) a powerhouse containing two generating units having a total installed capacity of 30-MW; (4) a 6-mile-long, 69-kV transmission line to Iowa Power's existing Knoxville substation; and (5) appurtenant facilities.

Applicant estimates that the average annual energy production would be 120,000 MWh and that the cost of the studies to be performed under the terms of the permit would be \$500,000. Project energy would be sold.

l. This notice also consists of the following standard paragraphs: A5, A7, A9, A10, B, C and D2.

Standard Paragraphs

A3. Development Application—Any qualified development applicant desiring to file a competing application must submit to the Commission, on or before the specified comment date for the particular application, a competing development application, or a notice of intent to file such an application. Submission of a timely notice of intent allows an interested person to file the competing development application no later than 120 days after the specified comment date for the particular application. Applications for preliminary permits will not be accepted in response to this notice.

A5. Preliminary Permit—Anyone desiring to file a competing application for preliminary permit for a proposed project must submit the competing application itself, or a notice of intent to file such an application, to the Commission on or before the specified comment date for the particular application (see 18 CFR 4.36). Submission of a timely notice of intent allows an interested person to file the competing preliminary permit application no later than 30 days after the specified comment date for the particular application. A competing preliminary permit application must conform with 18 CFR 4.30(b) (1) and (9) and 4.36.

A7. Preliminary Permit—Any qualified development applicant desiring to file a competing development application must submit to the Commission, on or before the specified comment date for the particular application, either a competing development application or a notice of intent to file such an application. Submission of a timely notice of intent to file a development application allows an interested person to file the competing application no later than 120 days after the specified comment date for the particular application. A competing license application must conform with 18 CFR 4.30(b) (1) and (9) and 4.36.

A9. Notice of intent—A notice of intent must specify the exact name, business address, and telephone number of the prospective applicant, include an unequivocal statement of intent to submit, if such an application may be filed, either (1) a preliminary permit application or (2) a development application (specify which type of application), and be served on the applicant(s) named in this public notice.

A10. Proposed Scope of Studies under Permit—A preliminary permit, if issued, does not authorize construction. The term of the proposed preliminary permit would be 36 months. The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on the results of these studies, the Applicant would decide whether to proceed with the preparation of a development application to construct and operate the project.

B. Comments, Protests, or Motions to Intervene—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

C. Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS," "NOTICE OF INTENT TO FILE COMPETING APPLICATION," "COMPETING APPLICATION," "PROTEST," "MOTION TO INTERVENE," as applicable, and the Project Number of the particular application to which the filing refers. Any of the above-named documents must be filed by providing the original and the number of copies provided by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426. An additional copy must be sent to Dean Shumway, Director, Division of Project Review, Federal Energy Regulatory Commission, room 1027 (810 1st), at the above-mentioned address. A copy of any notice of intent, competing application or motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

D1. Agency Comments—States, agencies established pursuant to federal law that have the authority to prepare a comprehensive plan for improving, developing, and conserving a waterway affected by the project, federal and state agencies exercising administration over fish and wildlife, flood control, navigation, irrigation, recreation, cultural or other relevant resources of

the State in which the project is located, and affected Indian tribes are requested to provide comments and recommendations for terms and conditions pursuant to the Federal Power Act as amended by the Electric Consumers Protection Act of 1986, the Fish and Wildlife Coordination Act, the Endangered Species Act, the National Historic Preservation Act, the Historical and Archeological Preservation Act, the National Environmental Policy Act, Public Law No. 88-29, and other applicable statutes. Recommended terms and conditions must be based on supporting technical data filed with the Commission along with the recommendations, in order to comply with the requirement in section 313 (b) of the Federal Power Act, 16 U.S.C. 8251 (b), that Commission findings as to facts must be supported by substantial evidence.

All other federal, state, and local agencies that receive this notice through direct mailing from the Commission are requested to provide comments pursuant to the statutes listed above. No other formal requests will be made. Responses should be confined to substantive issues relevant to the issuance of a license. A copy of the application may be obtained directly from the applicant. If an agency does not respond to the Commission within the time set for filing, it will be presumed to have no comments. One copy of an agency's response must also be sent to the Applicant's representatives.

D2. Agency Comments—Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Dated: May 24, 1991, Washington, DC.

Lois D. Casbell,

Secretary.

[FR Doc. 91-13085 Filed 6-3-91; 8:45 am]

BILLING CODE 6717-01-M

Office of Fossil Energy

[FE Docket No. 90-93-NG]

Poco Petroleum Inc., Authorization to Import Natural Gas from Canada

AGENCY: Office of Fossil Energy, Department of Energy.

ACTION: Notice of issuance of order granting long term authorization to import natural gas from Canada.

SUMMARY: The Office of Fossil Energy (FE) of the Department of Energy (DOE) gives notice that it has issued an order authorizing Poco Petroleum, Inc. (Poco), to import up to 7.3 million MMBtu (approximately 7,300,000 Mcf) of natural gas from Canada annually commencing on the effective date of the import authorization through October 31, 1999, via existing pipeline facilities. The gas would be imported by Poco, a natural gas marketer, as agent of its parent company, Poco Petroleum Ltd., for sale to IGI Resources, Inc. (IGI), also a natural gas marketer. IGI will resell the gas to industrial customers on a direct sales basis and to local distribution companies for resale to residential, commercial, and industrial customers in the States of Idaho, Washington, Oregon, Utah, Nevada, California, and Colorado.

A copy of this order is available for inspection and copying in the Office of Fuels Programs Docket Room, 3F-056, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586-9478. The docket room is open between the hours of 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, DC, May 29, 1991.

Clifford P. Tomaszewski,

Acting Deputy Assistant Secretary For Fuels Programs, Office of Fossil Energy.

[FR Doc. 91-13144 Filed 6-3-91; 8:45 am]

BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

[FRL 3960-9]

Agency Information Collection Activities Under OMB Review

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this notice announces that the Information Collection Request (ICR) abstracted below has been forwarded to the Office of Management and Budget (OMB) for review and comment. The ICR describes the nature of the information collection and its expected cost and burden.

DATES: Comments must be submitted on or before July 5, 1991.

FOR FURTHER INFORMATION CONTACT:
Sandy Farmer at EPA, (202) 382-2740.
SUPPLEMENTARY INFORMATION:

Office of Administration

Title: Invitation for Bids (IFBs) and Requests for Proposals (RFPs) (EPA No. 1038.06; OMB No. 2030-0006). This ICR requests approval to add information collection requirements to an existing information collection.

Abstract: This ICR, if approved, will establish cost proposal instructions requiring offerors under RFPs to submit more detailed cost and pricing information with their proposals. Offerors will also have the option of submitting this information on computer disks. Under 48 CFR parts 15 and 31, EPA contract officers must receive sufficiently detailed information from offerors to evaluate the reasonableness of individual cost elements in a proposal, and to ensure that the offerors will not bill the Government for costs that would not be allowable under contract. In the past, offerors responding to RFPs have sometimes submitted pricing and cost data that were insufficiently detailed, restricting the ability of EPA contracting officers to properly analyze and evaluate the proposals.

Burden Statement: Public reporting burden for this collection of information is estimated to average 2 hours per response, including reviewing instructions, searching existing information sources, and completing and reviewing the collection of information.

Respondents: Businesses or other for-profit organizations, non-profit institutions, small businesses or organizations.

Estimated Number of Respondents: 1275.

Frequency of Collection: One time.

Estimated Number of Responses per Respondent: 1.

Send comments regarding the burden estimate, or any other aspect of this collection of information, including suggestions for reducing the burden, to: Sandy Farmer, U.S. Environmental

Protection Agency, Information Policy Branch (PM-223Y), 401 M Street, SW., Washington, DC 20460

and

Tim Hunt, Office of Management and Budget, Office of Information and Regulatory Affairs, 725 17th St., NW., Washington, DC 20530.

OMB Responses to Agency PRA Clearance Requests

EPA ICR #1060.06; NSPS for Steel Plants: Electric ARC Furnaces and Argon-Oxygen Decarburization

Vessels—Subpart AA and AAA Information Requirements; was approved 04/24/91; OMB #2060-0038; expires 04/30/94.

EPA ICR #0138.03; Modification of Secondary Treatment Requirements for Discharges into Marine Waters; was approved 03/17/91; OMB #2040-0088; expires 05/31/92.

EPA ICR #0783.10; Gaseous and Particulate Emission Regulations for 1994 and Later Model Year Light-Duty Vehicles and Light-Duty Trucks; was approved 04/24/91; OMB #2060-0104; expires 05/31/92.

EPA ICR #1000.04; Polychlorinated Biphenyls (PCB's): Use in Electrical Equipment and Transformers; was approved 05/15/91; OMB #2070-0003; expires 05/31/94.

Extensions of Expiration Dates

EPA ICR #1012; PCB Disposal Permitting Regulation; OMB #2070-0011; expiration date extended from 06/30/91 to 09/30/91.

EPA ICR #0575; Health and Safety Data Reporting, Submissions of Lists and Copies of Health and Safety Studies; OMB #2070-0004; expiration date extended from 05/31/91 to 08/31/91.

Dated: May 24, 1991.

Paul Lapsley,

Director, Regulatory Management Division.
[FR Doc. 91-13124 Filed 6-3-91; 8:45 am]

BILLING CODE 6560-50-M

[FRL-3961-1]

Public Water System Supervision Program Revision for the State of Montana

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Public notice is hereby given in accordance with the provisions of section 1413 of the Safe Drinking Water Act as amended, 42 U.S.C. 300f et seq., and 40 CFR 142.10, the National Primary Drinking Water Regulations, that the State of Montana has revised its approved Public Water System Supervision (PWSS) Primacy Program. Montana has developed: (1) Drinking water regulations for eight volatile organic chemicals that correspond to the National Primary Drinking Water Regulations for eight volatile organic chemicals promulgated by EPA on July 8, 1987 (52 FR 25690); and (2) public notice regulations that correspond to the revised EPA public notice requirements promulgated on October 28, 1987 (52 FR 41534). EPA has determined that these

State program revisions are no less stringent than the corresponding federal regulations and has approved these State program revisions. This determination shall become effective July 5, 1991, and was based upon a thorough evaluation of Montana's PWSS program which has met the requirements stated in 40 CFR 142.10.

Montana's PWSS program, as presented and evaluated, has indicated that it is fully capable of carrying out all of the areas required to achieve primary enforcement capability.

Any interested parties are invited to submit written comments on this determination, and may request a public hearing on or before July 5, 1991. If a public hearing is requested and granted, this determination shall not become effective until such time following the hearing that the Regional Administrator issues an order affirming or rescinding this action.

Requests for a public hearing should be addressed to: James J. Scherer, Regional Administrator, U.S. Environmental Protection Agency, Region VIII, 999 18th Street, suite 500, Denver, CO 80202-2405.

Frivolous or insubstantial requests for a hearing may be denied by the Regional Administrator. However, if a substantial request is made within thirty (30) days after this notice, a public hearing will be held.

Any request for a public hearing shall include the following: (1) the name, address, and telephone number of the individual organization, or other entity requesting a hearing; (2) a brief statement of the requesting person's interest in the Regional Administrator's determination and of information that the requesting person intends to submit at such hearing; and (3) the signature of the individual making the requests, or, if the request is made on behalf of an organization or other entity, and signature of the responsible official of the organization or other entity.

Notice of any hearing shall be given not less than fifteen (15) days prior to the time scheduled for the hearing. Such notice will be made by the Regional Administrator in the *Federal Register* and in newspapers of general circulation in the State of Montana. A notice will also be sent to the person(s) requesting the hearing as well as to the State of Montana. The hearing notice will include a statement of purpose, information regarding time and location, and the address and telephone number where interested persons may obtain further information. The Regional Administrator will issue an order affirming or rescinding his

determination upon review of the hearing record. Should the determination be affirmed, it will become effective as of the date of the order.

Should no timely and appropriate request for a hearing be received, and the Regional Administrator does not elect to hold a hearing on his own motion, this determination shall become effective on July 5, 1991.

Please bring this notice to the attention of any persons known by you to have an interest in this determination.

All documents relating to this determination are available for inspection at the following locations: U.S. EPA Region VIII Regional Library, 999 18th Street, Denver, Colorado 80202-2405, between the hours of 10 a.m. and 4 p.m. (MDT), Mon.-Fri. and the MT Department of Health and Environmental Sciences, Drinking Water/Subdivision Section, Cogswell Building, Helena, Montana 59620 between the hours of 8 a.m. and 5 p.m. (MDT), Mon.-Fri.

FOR FURTHER INFORMATION CONTACT: Robert Clement, EPA Region VIII, Public Water Supply Program Section (8WM-DW) at the Denver address given above, telephone (303) 293-1417, (FIS) 330-1417.

Dated: May 22, 1991.

Jack McGraw,

Deputy Regional Administrator, EPA, Region VIII.

[FR Doc. 91-13123 Filed 6-3-91; 8:45 am]

BILLING CODE 6530-50-M

FEDERAL COMMUNICATIONS COMMISSION

Public Information Collection Requirement Submitted to Office of Management and Budget for Review

May 28, 1991.

The Federal Communications Commission has submitted the following information collection requirement to OMB for review and clearance under the Paperwork Reduction Act of 1980 (44 U.S.C. 3507).

Copies of this submission may be purchased from the Commission's copy contractor, Downtown Copy Center, 1114 21st Street, NW., Washington, DC 20036, (202) 452-1422. For further information on this submission contact Judy Boley, Federal Communications Commission, (202) 632-7513. Persons wishing to comment on this information collection should contact Jonas Neihardt, Office of Management and Budget, room 3235 NEOB, Washington, DC 20503, (202) 395-4814.

OMB number: None

Title: Informational Tariffs

Action: New collection

Respondents: Businesses or other for-profit (including small businesses)

Frequency of response: On occasion

Estimated annual burden: 330

responses; 50 hours average burden per response; 16,500 hours total annual burden

Needs and uses: Providers of interstate operator services are directed by section 226(h)(1)(A) of the Communications Act, 47 U.S.C. 226(h)(1)(A), to file informational tariffs with the Commission and to update these tariffs regularly. The tariffs will be reviewed by Commission staff to determine whether they are unjust or unreasonable. The informational tariffs will be maintained for public inspection. The Common Carrier Bureau, at the direction of Congress, will also use the informational tariffs in assessing the compliance of the rates charged by operator service providers (OSPs) with the requirements of the Communications Act.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

[FR Doc. 91-13053 Filed 6-3-91; 8:45 am]

BILLING CODE 6712-01-M

Public Information Collection Requirements Submitted To Office of Management and Budget for Review

May 24, 1991.

The Federal Communications Commission has submitted the following information collection requirements to OMB for review and clearance under the Paperwork Reduction Act of 1980 (44 U.S.C. 3507).

Copies of these submissions may be purchased from the Commission's copy contractor, Downtown Copy Center, 1114 21st Street, NW., Washington, DC 20036, (202) 452-1422. For further information on these submissions contact Judy Boley, Federal Communications Commission, (202) 632-7513. Persons wishing to comment on these information collections should contact Jonas Neihardt, Office of Management and Budget, room 3235 NEOB, Washington, DC 20503, (202) 395-4814.

OMB Number: 3060-0340

Title: Section 73.51, Determining operating power

Action: Extension

Respondents: Businesses or other for-profit (including small businesses)

Frequency of response: Recordkeeping requirements

Estimated annual burden: 5,030

recordkeepers; 25 hours average burden per recordkeeper; 1,253 hours total annual burden

Needs and uses: Section 73.51 requires AM stations to make notation in station log when using indirect measurement of power determination and that a record of value F (efficiency factor) be kept. When it is not possible to use the direct method of power determination due to technical reasons, the indirect method of determining antenna input power may be used on a temporary basis. The recordkeeping requirement is used by FCC staff in field investigations to monitor licensee's compliance with the FCC's technical rules and to ensure that licensee is operating in accordance with its station authorization. The value F (efficiency factor) is used by station personnel in the event that measurement by the indirect method of power is necessary.

OMB Number: 3060-0341

Title: Section 73.1680, Emergency antennas

Action: Extension

Respondents: Non-profit institutions and businesses or other for-profit (including small businesses)

Frequency of response: On occasion reporting

Estimated annual burden: 104

responses; 1 hour average burden per response; 104 hours total annual burden

Needs and uses: Section 73.1680 requires that licensees of AM, FM or TV stations submit an informal request to the FCC (without 24 hours of commencement of use) to continue operation with an emergency antenna. An emergency antenna is one that is erected for temporary use after the authorized main and auxiliary antennas are damaged and cannot be used. The data is used by FCC staff to ensure that interference is not caused to other existing stations.

OMB Number: 3060-0254

Title: Section 74.433, Temporary authorizations

Action: Extension

Respondents: State or local governments, non-profit institutions, and businesses or other for-profit (including small businesses)

Frequency of response: On occasion reporting

Estimated annual burden: 20 responses; 2 hours average burden per response; 40 hours total annual burden

Needs and uses: Section 74.433 requires that a licensee of a remote pickup station make an informal written request to the FCC when requesting temporary authorization for operations of a temporary nature that cannot be conducted in accordance with § 74.24. The data is used by FCC staff to insure that the temporary operation of a remote pickup station will not cause interference to existing stations.

OMB Number: 3060-0246

Title: Section 74.452, Equipment changes

Action: Extension

Respondents: State or local

governments, non-profit institutions, and businesses or other for-profit (including small businesses)

Frequency of response: On occasion reporting

Estimated annual burden: 50 responses; .50 hours average burden per response; 25 hours total annual burden

Needs and uses: Section 74.452 requires that licensees of remote pickup stations notify the Commission of any equipment changes that are deemed desirable or necessary (without departing from its station authorization) upon completion of such changes. The data is used by FCC staff to assure that the changes made comply with the Rules and Regulations.

OMB Number: 3060-0342

Title: Section 74.1284, Rebroadcasts

Action: Extension

Respondents: Businesses or other for-profit (including small businesses)

Frequency of response: On occasion reporting

Estimated annual burden: 25 responses; 1 hour average burden per response; 25 hours total annual burden

Needs and uses: Section 74.1284 requires that the licensee of an FM Translator station obtain prior consent from the primary FM broadcast station or other FM translators before rebroadcasting their programs. In addition, the licensee must notify the Commission of the call letters of each station rebroadcast and must certify that written consent has been received from the licensee of that station. The data is used by FCC staff to update records and to assure compliance with FCC rules and regulations.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

[FR Doc. 91-13054 Filed 6-3-91; 8:45 am]

BILLING CODE 6712-01-M

[Report No. 1846]

Petitions for Reconsideration of Actions in Rule Making Proceedings

Petitions for reconsideration have been filed in the Commission rule making proceedings listed in this Public Notice and published pursuant to 47 CFR 1.429(e). The full text of these documents are available for viewing and copying in room 239, 1919 M Street, NW., Washington, DC, or may be purchased from the Commission's copy contractor Downtown Copy Center (202) 452-1422. Oppositions to these petitions must be filed on or before June 20, 1991. See § 1.4(b)(1) of the Commission's rules (47 CFR 1.4(b)(1)). Replies to an opposition must be filed within 10 days after the time for filing oppositions has expired.

Subject: Amendment of § 73.202(b), Table of Allotments, FM Broadcast Stations (Ankeny and West Des Moines, Iowa). Number of Petitions Received: 1

Subject: Amendment of § 73.202(b), Table of Allotments, FM Broadcast Stations (Prescott Valley, Arizona) (MM 88-473; RM-6388). Number of Petitions Received: 2

Subject: Amendment of § 73.202(b), Table of Allotments, FM Broadcast Stations (Rocky Mount, North Carolina) (MM 90-318, RM-7059). Number of Petitions Received: 1

Federal Communications Commission.

William F. Caton,

Acting Secretary.

[FR Doc. 91-13055 Filed 6-3-91; 8:45 am]

BILLING CODE 6712-01-M

Travel Reimbursement Program January 1, 1991-March 31, 1991; Summary Report (corrected)

The following corrections are hereby made to the Summary Report which first appeared in the *Federal Register*/Vol. 56, No. 91/Friday, May 10, 1991:

Total Number of Sponsored Events: 8

Total Number of Sponsoring

Organizations: 8

Total Number of Commissioners/

Employees Attending: 22

Total Amount of Reimbursement

Expected:

Transportation.....	\$11,438.00
Subsistence.....	8,848.26
Other Expenses.....	2,012.90
Total.....	\$22,299.16

Travel Reimbursement Program Individual Event Report Errata:

(1) Replace the prior Event Report with the following:

Sponsoring Organization
National Cable Television Association,
1724 Massachusetts Avenue, NW.,
Washington, DC. 20036.

Date of the Event

March 24-27, 1991

Description of the Event

NCTA's 40th Annual Convention and Exposition

Commissioners Attending

Chairman Alfred C. Sikes

Commissioner James H. Quello

Commissioner Sherrie P. Marshall

Commissioner Ervin C. Duggan

Other Employees Attending

Lauren J. Belvin, Legal Advisor to the Chairman

Linda Townsend Solheim, Director,

Office of Legislative Affairs

Thomas P. Stanley, Chief Engineer,

Office of Engineering and

Technology

Richard M. Firestone, Chief, Common

Carrier Bureau

Roy Stewart, Chief, Mass Media

Bureau

William H. Johnson, Deputy Chief,

Mass Media Bureau

Ronald Parver, Chief, Cable

Television Branch, Mass Media

Bureau

Michele Farquhar, Legal Advisor to

Commissioner Duggan

Amount of Reimbursement:

Transportation.....	\$4,173.00
Subsistence.....	3,291.58
Other Expenses.....	769.96
Total.....	\$8,234.54

(2) Replace the prior event with the following:

Sponsoring Organization

INTV Association of Independent

Television Stations, Inc.,

1200 Eighteenth Street, NW., suite 502,

Washington, DC 20036

Date of the Event

January 3-5, 1991

Description of the Event

INTV's 1991 Annual Convention

Commissioners Attending

Commissioner James H. Quello

Commissioner Sherrie P. Marshall

Commissioner Ervin S. Duggan

Other Employees Attending

Lauren J. Belvin, Legal Advisor to the Chairman

Byron F. Marchant, Legal Advisor to

Commissioner Barrett

Peter D. Ross, Legal Advisor to

Commissioner Marshall

Linda Townsend Solheim, Director,

Office of Legislative Affairs

Robert M. Pepper, Chief, Office of

Plans and Policy

Douglas Webbink, Chief, Policy and

Rules Division, Mass Media Bureau
Amount of Reimbursement

Transportation	\$3,894.00
Subsistence	3,874.00
Other Expenses	579.33
Total	\$8,147.33

(3) Add the following Event Report:

Sponsoring Organization
Texas Cable Television Association,
506 West 16th Street,
Austin, TX 78701.

Date of the Event
February 27-March 1, 1991

Description of the Event
Annual Texas Show '91

Commissioners Attending
None

Other Employees Attending
John P. Wong, Supervisory Electronics
Engineer, Mass Media Bureau

Amount of Reimbursement

Transportation	\$262.00
Subsistence	247.50
Other Expenses	65.90
Total	\$575.40

(4) Add the following Event Report:

Sponsoring Organization
California Broadcasters Association,
1127 11th Street, suite 730,
Sacramento, CA 95814.

Date of the Event
January 25-26, 1991

Description of the Event
Winter Conference

Commissioners Attending
None

Other Employees Attending
Milton O. Gross, Supervisory Attorney
Advisor, Mass Media Bureau

Amount of Reimbursement

Transportation	\$492.00
Subsistence	442.50
Other Expenses	66.00
Total	\$1,002.50

(5) Add the following Event Report:

Sponsoring Organization
Cardiff Publishing Company, Inc.,
6300 S. Syracuse Way, suite 650,
Englewood, CA 90111.

Date of the Event
March 25-28, 1991

Description of the Event
International Mobile Communications
Exposition

Commissioners Attending
None

Other Employees Attending
Ralph A. Haller, Chief, Private Radio
Bureau
Kent Y. Nakamura, Attorney Advisor,

Private Radio Bureau
Terry L. Fishel, Supervisory
Electronics Engineer, Private Radio
Bureau
Amount of Reimbursement

Transportation	\$1,249.00
Subsistence	307.50
Other Expenses	209.65
Total	\$1,766.15

Federal Communications Commission.

William F. Caton,

Acting Secretary.

[FR Doc. 91-13056 Filed 6-3-91; 8:45 am]

BILLING CODE 6712-01-M

FEDERAL MARITIME COMMISSION

Compagnie Generale Maritime, et al.;
Agreement(s) Filed

The Federal Maritime Commission hereby gives notice of the filing of the following agreement(s) pursuant to section 5 of the Shipping Act of 1984.

Interested parties may inspect and obtain a copy of each agreement at the Washington, DC, Office of the Federal Maritime Commission, 1100 L Street, NW., room 10325. Interested parties may submit comments on each agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within 10 days after the date of the *Federal Register* in which this notice appears. The requirements for comments are found in § 572.603 of title 46 of the Code of Federal Regulations. Interested persons should consult this section before communicating with the Commission regarding a pending agreement.

Agreement No.: 232-011307-001.

Title: Space Charter Agreement Between Compagnie Generale Maritime and Sea-Land Service, Inc., P&O Containers Ltd. and Nedlloyd Lijnen, B.V.

Parties: P&O Containers Limited, Nedlloyd Lijnen, B.V., Sea-Land Service, Inc., Compagnie Generale Maritime (CGM)

Synopsis: The proposed amendment would advance the effective date in the scope of the Agreement to include United States South Atlantic and Gulf ports, from April 1, 1992 to June 30, 1991. The parties have requested a shortened review period.

Dated: May 30, 1991.

By Order of the Federal Maritime Commission.

Joseph C. Polking,

Secretary.

[FR Doc. 91-13107 Filed 6-3-91; 8:45 am]

BILLING CODE 6730-01-M

Ocean Freight Forwarder License;
Applicants

Notice is hereby given that the following applicants have filed with the Federal Maritime Commission applications for licenses as ocean freight forwarders pursuant to section 19 of the Shipping Act of 1984 (46 U.S.C. app. 1718 and 46 CFR part 510).

Persons knowing of any reason why any of the following applicants should not receive a license are requested to contact the Office of Freight Forwarder and Passenger Vessel Operations, Federal Maritime Commission, Washington, DC 20573.

Ambassadors International, 19401 S. Main Street, Gardena, CA 90248.
Takashi Izumikawa, Sole Proprietor.

All Ports International, Inc., 1415 Atlantic Blvd., suite D, Neptune Beach, FL 32266. Officers: James J. Smith, Jr., President, Linda M. Angleton, Secretary/Treasurer.

F.R.T. International Inc. dba Frontier Freightliner, 2311 E. Pacifica Pl., Rancho Dominguez, CA 90220. Officers: Brian B. Chung, President, Joyce D. Chung, Secretary.

Lancer International Corp., 1465 N.W. 97th Ave., Miami, FL 33172. Officers: Miguel A. Delgado, President/Director/Stockholder, Illiana Delgado, Director/Stockholder.

Mountain Air Delivery, 702 Spice Island Drive, Sparks, Nevada 89431. Officers: Gerald W. Griffin, Jr., President/Director/Stockholder, Marna W. Griffin, Secretary/Director/Treasurer.

Dynasty International, Inc., 365 Chelsea Street, East Boston, MA 02128. Officer: John D. Fitzpatrick, President, Richard Chu, Treasurer/Stockholder.

H & K International, 52-25 73 Street, Maspeth, New York 11378. Officers: Henry K. Rozek, President, Krystyna Rozek, Vice President.

World Port Shipping Inc., 2182 W. 190th Street, Torrance, CA 90504. Officers: Chris D. Lee, President, Oh Hyun, Kim Stockholder, Hyo Won, Shim, Stockholder.

Hollywood Export Forwarding Company, 1943 N. Wilton Place, Los Angeles, CA 90068, Rosamaria M. Alkire, Sole Proprietor.

New York Forwarding Inc., 660 Kings Highway North, suite 200, Cherry Hill, NJ 08034. Officers: Nicholas A. Ciaccio, President/Director/Stockholder, Geraldine M. Ciaccio, V.President/Treas./Stockh.

Vintage Shipping Inc., 1624 E. Sunrise Blvd., Ft. Lauderdale, FL 33304. Officers: Roberta C. L. Robbert, President/Director, Morris Shirazi, Stockholder.

Stewart Alexander & Company, Inc., 254 W. 35th St., 18th floor, New York, NY 10001. Officers: William D. Stewart, Jr., President/Director, Evangelos Alexander, Vice President/Director, Richard C. Sembler, Secretary/Treasurer/Director.

Mercury Express International, 325 So. Maple Ave., Suite 48, So. San Francisco, CA 94080, Leonardo L. Enriquez, President/General Manager.

S.H.R. Enterprises, Inc., 4500 East 11th Ave., Hialeah, FL 33013. Officers: Stephen H. Rose, President.

CXports, 111 S.W. 313th Street, Federal Way, WA 99023, David L. Ireland, Sole Proprietor.

M.A.M. Intercontinental and Overseas Services, Inc., dba Red Sea Shipping Company, 5405 Garden Grove Blvd., Suite 111, Westminster, CA 92683. Officers: Mohamed N. Anwar, President/Director, Mamdouh E. Aboushousha, Secretary/Director.

DJS International Services, Inc., 8411 Sterling St., Suite 101, Irving, TX 75063. Officers: Darrell J. Sekin, Jr., President/Stockholder/Director, Martha Gail Sekin, Secretary/Treasurer/Director, Darrell J. Sekin, Sr., Director.

La Favorita Moving & Shipping, 161 W. Cecil B Moore Ave., Philadelphia, PA 19122, Eliezer Garcia, Sole Proprietor.

Total Air & Ocean Services, Inc., 5068 N.W. 74th Ave., Miami, FL 33166. Officers: Lillian Hayden, President, Henry K. Verges, Vice President, Lisa Russo, Secretary/Treasury.

Dated: May 30, 1991.

By the Federal Maritime Commission.

Joseph C. Polking,

Secretary.

[FR Doc. 91-13106 Filed 6-3-91; 8:45 am]

BILLING CODE 5730-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Agency for Health Care Policy and Research

Development of Guidelines On Quality Determinants of Mammography

The Agency for Health Care Policy and Research announces that it is establishing a panel of experts and health care consumers to develop clinical practice guidelines for the quality determinants of mammography and invites nominations of qualified individuals to serve as the chairperson(s) and as panel members.

Background

The Omnibus Budget Reconciliation Act of 1989 (Pub. L. 101-239) enacted on

December 19, 1989, added a new title IX to the Public Health Service Act (the Act), which established the Agency for Health Care Policy and Research (AHCPR) to enhance the quality, appropriateness, and effectiveness of health care services, and access to such services. The AHCPR is to achieve its goals through the establishment of a broad base of scientific research and through the promotion of improvements in clinical practice and in the organization, financing and delivery of health care services.

Section 911 of the Act (42 U.S.C. 299b) established within the AHCPR the Office of the Forum for Quality and Effectiveness in Health Care (the Forum). Through this office, AHCPR is arranging for the development and periodic review and updating of clinically relevant guidelines that may be used by physicians, educators, and health care practitioners to assist in determining how diseases, disorders, and other health conditions can most effectively and appropriately be prevented, diagnosed, treated, and managed clinically.

Section 912 of the Act (42 U.S.C. 299b-1) requires that the guidelines be:

1. Based on the best available research and professional judgment;
2. Presented in formats appropriate for use by physicians, other health care practitioners, medical educators, medical review organizations, and consumers of health care; and
3. In forms appropriate for use in clinical practice, educational programs, and reviewing quality and appropriateness of medical care.

Section 913 of the Act (42 U.S.C. 299b-2) describes two mechanisms through which the Forum and the Agency can arrange for the development of guidelines: 1. Panels of qualified experts and health care consumers can be convened, and 2. Contracts can be awarded to public and private nonprofit organizations. AHCPR has elected to use the panel process for the development of clinical practice guidelines for the quality determinants of mammography.

Panel Nominations

The panel, consisting of a chairperson(s) and ten to fifteen qualified experts and health care consumers, will develop guidelines regarding attributes of clinical practice, equipment, and personnel to ensure the highest quality of mammography.

To assist in identifying members for the panel, AHCPR is requesting recommendations from a broad range of interested individuals and organizations, including physicians

representing specialty and primary practices, nurses, and allied health and other health care practitioners, as well as consumers with pertinent experience or information. AHCPR is especially interested in receiving nominations of: (1) Persons with experience in developing guidelines for early detection of breast cancer; (2) persons with relevant experience in basic and clinical research in early detection of breast cancer; (3) persons with relevant experience in the variety of clinical and technical skills needed in detecting breast cancer; (4) persons with expertise in the design and use of diagnostic equipment for mammograms; (5) persons skilled in the training and certification of technologists and physicians involved in mammography; and, (6) health care consumers who have or have had breast cancer.

To provide a full perspective on current efforts of the Public Health Service, including the Centers for Disease Control, the Food and Drug Administration, and the National Cancer Institute, representatives from these and other relevant Federal agencies will provide information to the panel from their respective institutions.

This Notice requests nominations of qualified individuals to serve on the panel as members and as panel chairperson(s). The functions of the panel chairperson(s) are critical to the guideline development process and the final product. The chairperson(s) will provide leadership to the panel regarding methodology, literature review, panel deliberations, and formation of the final product. Nominations for the chairperson(s) should take into consideration the criteria specified below, which the AHCPR will use in making its selection.

AHCPR will appoint the panel chairperson(s) from among the nominations received using criteria that include the following:

- Relevant training and clinical experience,
- Demonstrated interest in quality assurance and research on the clinical condition(s) under consideration and the related treatment of the condition(s), including publication of relevant peer-reviewed articles,
- Commitment to the need to produce clinical guidelines,
- Recognition in the field with a record of leadership in relevant activities,
- Broad public health view of the utility of particular procedure(s) or clinical service(s).

- Demonstrated capacity to lead a health care team in a group decisionmaking process,
- Demonstrated capacity to respond to consumer concerns, and
- Prior experience in developing guidelines for the clinical condition in question.

Once the panel chairperson(s) has been appointed, the nominations for members of the panel will be submitted for further review and consideration to the selected chairperson(s), who will in turn recommend proposed panel members to AHCPR. Appointments of the panel members will be made by the AHCPR, after review of proposed members' qualifications and the overall composition of the panel to ensure representation of a range of experience and expertise.

Nominations should indicate whether the individual is being recommended to serve as the panel chairperson(s) or to serve as a member of the panel. Each nomination must include a copy of the individual's curriculum vitae or resume, plus a statement of the rationale for the specific nomination. To be considered, nominations must be received by June 28, 1991 at the following address:

Office of the Forum on Quality and Effectiveness in Health Care, Agency for Health Care Policy and Research, 5600 Fishers Lane, Parklawn Building, room 18A46, Rockville, MD 10857.

For Additional Information

Additional information on the guideline development process is contained in the AHCPR Program Note, Clinical Guideline Development dated August 1990. This Program Note, describing the activities underway by AHCPR for developing clinical practice guidelines, includes the process and criteria for selecting the panels. Copies may be obtained by calling the Center for Research Dissemination and Liaison, Agency for Health Care Policy and Research, at (301) 443-2904.

For further information on the process for developing guidelines for quality determinants of mammography, contact Lawrence E. Williams, Acting Director, Office of the Forum for Quality and Effectiveness in Health Care, Agency for Health Care Policy and Research, at the above address.

Dated May 28, 1991.

Willard B. Evans, Jr.,
Acting Administrator.

[FR Doc. 91-13048 Filed 6-3-91; 8:45 am]

ILLING CODE 4190-17-M

Alcohol, Drug Abuse, And Mental Health Administration

Current List of Laboratories Which Meet Minimum Standards To Engage in Urine Drug Testing for Federal Agencies

AGENCY: National Institute on Drug Abuse, ADAMHA, HHS.

ACTION: Notice.

SUMMARY: The Department of Health and Human Services notifies Federal agencies of the laboratories currently certified to meet standards of subpart C of Mandatory Guidelines for Federal Workplace Drug Testing Programs (53 FR 11979, 11986). A similar notice listing all currently certified laboratories will be published during the first week of each month, and updated to include laboratories which subsequently apply for and complete the certification process. If any listed laboratory's certification is totally suspended or revoked, the laboratory will be omitted from updated lists until such time as it is restored to full certification under the Guidelines.

FOR FURTHER INFORMATION CONTACT: Denise L. Goss, Program Assistant, Drug Testing section, Division of Applied Research, National Institute on Drug Abuse, room 9-A-53, 5600 Fishers Lane, Rockville, Maryland 20857; tel.: (301)443-6014.

SUPPLEMENTARY INFORMATION: Mandatory Guidelines for Federal Workplace Drug Testing were developed in accordance with Executive Order 12564 and section 503 of Public Law 100-71. Subpart C of the Guidelines, "Certification of Laboratories Engaged in Urine Drug Testing for Federal Agencies," sets strict standards which laboratories must meet in order to conduct urine drug testing for Federal agencies. To become certified an applicant laboratory must undergo three rounds of performance testing plus an on-site inspection. To maintain that certification a laboratory must participate in an every-other-month performance testing program plus periodic, on-site inspections.

Laboratories which claim to be in the applicant stage of NIDA certification are not to be considered as meeting the minimum requirements expressed in the NIDA Guidelines. A laboratory must have its letter of certification from HHS/NIDA which attests that it has met minimum standards.

In accordance with Subpart C of the Guidelines, the following laboratories meet the minimum standards set forth in the Guidelines:

Alpha Medical Laboratory, Inc., 405 Alderson Street, Schofield, WI 54476, 800-627-8200.

American BioTest Laboratories, Inc., Building 15, 3350 Scott Boulevard, Santa Clara, CA 95054, 408-727-5525.

American Medical Laboratories, Inc., 11091 Main Street, P.O. Box 188, Fairfax, VA 22030, 703-691-9100.

Associated Pathologists Laboratories, Inc., 4230 South Burnham Avenue, suite 250, Las Vegas, NV 89119-5412, 702-733-7866.

Associated Regional and University Pathologists, Inc. (ARUP), 500 Chipeta Way, Salt Lake City, UT 84108, 801-583-2787.

Bayshore Clinical Laboratory, 4555 W. Schroeder Drive, Brown Deer, WI 53223, 414-355-4444/800-877-7016.

Bellin Hospital-Toxicology Laboratory, 2789 Allied Street, Green Bay, WI 54304, 414-498-2487.

Bio-Analytical Technologies, 2356 North Lincoln Avenue, Chicago, IL 60614, 312-880-6900.

The certification of this laboratory (Bio-Analytical Technologies, Chicago, IL) is suspended from conducting confirmatory testing of amphetamines. The laboratory continues to meet all requirements for HHS/NIDA certification for testing urine specimens for marijuana, cocaine, opiates and phencyclidine. For more information, see 55 FR 2183 (Jan. 22, 1991).

Cedars Medical Center, Department of Pathology, 1400 Northwest 12th Avenue, Miami, FL 33136, 305-325-5810.

Center for Human Toxicology, 417 Wakara Way-room 290, University Research Park, Salt Lake City, UT 84108, 801-581-5117.

Columbia Biomedical Laboratory, Inc., 4700 Forest Drive, suite 200, Columbia, SC 29206, 800-848-4245/803-782-2700.

Clinical Pathology Facility, Inc., 711 Bingham Street, Pittsburgh, PA 15203, 412-488-7500.

Clinical Reference Lab, 11850 West 85th Street, Lenexa, KS 66214, 800-445-6917.

CompuChem Laboratories, Inc., 3308 Chapel Hill/Nelson Hwy., P.O. Box 12652, Research Triangle Park, NC 27709, 919-549-8263.

Damon Clinical Laboratories, 140 East Ryan Road, Oak Creek, WI 53154, 800-365-3840, (name changed: formerly Chem-Bio Corporation; CEC Clinilab).

Damon Clinical Laboratories, 8300 Esters Blvd., suite 900, Irving, TX 75063, 214-929-0535.

- Doctors & Physicians Laboratory, 801 East Dixie Avenue, Leesburg, FL 32748, 904-787-9006.
- Drug Labs of Texas, 15201 I 10 East, suite 125, Channelview, TX 77530, 713-457-3784.
- DrugScan, Inc., P. O. Box 2969, 1119 Mearns Road, Warminster, PA 18974, 215-674-9310.
- Eastern Laboratories, Ltd., 95 Seaview Boulevard, Port Washington, NY 11050, 516-625-9800.
- ElSohly Laboratories, Inc., 1215½ Jackson Ave., Oxford, MS 38655, 601-236-2609.
- Environmental Health Research & Testing, Inc., 1075 South 13th St., Birmingham, AL 35205-9998, 205-934-0985.
- General Medical Laboratories, 36 South Brooks Street, Madison, WI 53715, 608-267-6267.
- Harris Medical Laboratory, P.O. Box 2981, 1401 Pennsylvania Avenue, Fort Worth, TX 76104, 817-878-5600.
- HealthCare/Preferred Laboratories, 24451 Telegraph Road, Southfield, MI 48034, 800-225-9414 (outside MI)/800-328-4142 (MI only).
- Laboratory of Pathology of Seattle, Inc., 1229 Madison St., suite 500, Nordstrom Medical Tower, Seattle, WA 98104, 206-388-2672.
- Laboratory Specialists, Inc., P.O. Box 4350, Woodland Hills, CA 91365, 818-718-0115/800-331-8670 (outside CA)/800-464-7081 (CA only), (name changed: formerly Abused Drug Laboratories).
- Laboratory Specialists, Inc., 113 Jarrell Drive, Belle Chasse, LA 70037, 504-392-7961.
- Massey Analytical Laboratories, Inc., 2214 Main Street, Bridgeport, CT 06606, 203-334-6187.
- Mayo Medical Laboratories, 200 SW First Street, Rochester, MN 55905, 800-533-1710/507-284-3631.
- Med Arts Lab, 5419 South Western, Oklahoma City, OK 73109, 800-251-0089.
- Med-Chek Laboratories, Inc., 4900 Perry Highway, Pittsburgh, PA 15229, 412-931-7200.
- MedExpress/National Laboratory Center, 4022 Willow Lake Boulevard, Memphis, TN 38175, 901-795-1515.
- MedTox Laboratories, Inc., 402 W. County Road D, St Paul, MN 55112, 612-636-7486.
- Mental Health Complex Laboratories, 9455 Watertown Plank Road, Milwaukee, WI 53226, 414-257-7439.
- Methodist Medical Center, 221 NE Glen Oak Avenue, Peoria, IL 61636, 309-672-4928.
- MetPath, Inc., 1355 Mittel Boulevard, Wood Dale, IL 60191, 708-595-3888.
- MetPath, Inc., One Malcolm Avenue, Teterboro, NJ 07608, 201-393-5000.
- MetWest-BPL Toxicology Laboratory, 18700 Oxnard Street, Tarzana, CA 91356, 800-492-0800/818-343-8191.
- National Center for Forensic Science, 1901 Sulphur Spring Road, Baltimore, MD 21227, 301-247-9100 (name changed: formerly Maryland Medical Laboratory, Inc.).
- National Health Laboratories Incorporated, 13900 Park Center Road, Herndon, VA 22071, 703-742-3100/800-572-3734 (inside VA)/800-336-0391(outside VA).
- National Health Laboratories Incorporated, d.b.a. National Reference Laboratory, Substance Abuse Division, 1400 Donelson Pike, suite A-15, Nashville, TN 37217, 615-360-3992/800-800-4522.
- National Health Laboratories Incorporated, 2540 Empire Drive, Winston-Salem, NC 27103-6710, 919-760-4620/800-334-8627 (outside NC)/800-642-0894 (NC only).
- National Psychopharmacology Laboratory, Inc., 9320 Park W. Boulevard, Knoxville, TN 37923, 800-251-9492.
- National Toxicology Laboratories, Inc., 1100 California Avenue, Bakersfield, CA 93304, 805-322-4250.
- Nichols Institute Substance Abuse Testing (NISAT), 8985 Balboa Avenue, San Diego, CA 92123, 800-446-4728/619-694-5050 (name changed: formerly Nichols Institute).
- Northwest Toxicology, Inc., 1141 E. 3900 South, Salt Lake City, UT 84124, 800-322-3361.
- Oregon Medical Laboratories, P.O. Box 972, 722 East 11th Avenue, Eugene, OR 97440-0972, 503-687-2134.
- Parke DeWitt Laboratories, Division of Comprehensive Medical Systems, Inc., 1810 Frontage Rd., Northbrook, IL 60062, 708-480-4680.
- Pathlab, Inc., 16 Concord, El Paso, TX 79906, 800-999-7284.
- Pathology Associates Medical Laboratories, East 11604 Indiana, Spokane, WA 99206, 509-926-2400.
- PDLA, Inc., 100 Corporate Court, So. Plainfield, NJ 07080, 201-769-8500.
- PharmChem Laboratories, Inc., 1505-A O'Brien Drive, Menlo Park, CA 94025, 415-328-6200/800-446-5177.
- Poisonlab, Inc., 7272 Clairemont Mesa Road, San Diego, CA 92111, 619-279-2800.
- Precision Analytical Laboratories, Inc., 13300 Blanco Road, suite #150, San Antonio, TX 78216, 512-493-3211.
- Regional Toxicology Services, 15305 NE 40th Street, Redmond, WA 98052, 206-882-3400.
- Roche Biomedical Laboratories, 1801 First Avenue South, Birmingham, AL 35233, 205-581-3537.
- Roche Biomedical Laboratories, 6370 Wilcox Road, Dublin, OH 43017, 614-889-1061.
- The certification of this laboratory (Roche Biomedical Laboratories, Dublin, OH) is suspended from conducting confirmatory testing of amphetamines. The laboratory continues to meet all requirements for HHS/NIDA certification for testing urine specimens for marijuana, cocaine, opiates and phencyclidine. For more information, see 55 FR 50589 (Dec. 7, 1990).
- Roche Biomedical Laboratories, Inc., 1912 Alexander Drive, P.O. Box 13973, Research Triangle Park, NC 27709, 919-361-7770.
- Roche Biomedical Laboratories, Inc., 101 Inverness Drive East, Englewood, CO 80112, 303-792-2822.
- Roche Biomedical Laboratories, Inc., 69 First Avenue, Raritan, NJ 08869, 800-437-4986.
- Roche Biomedical Laboratories, Inc., 1120 Stateline Road, Southaven, MS 38671, 601-342-1286.
- S.E.D. Medical Laboratories, 500 Walter NE suite 500, Albuquerque, NM 87102, 505-848-8800.
- Sierra Nevada Laboratories, Inc., 888 Willow Street, Reno, NV 89502, 800-648-5472.
- SmithKline Beecham Clinical Laboratories, 506 E. State Parkway, Schaumburg, IL 60173, 708-885-2010 (name changed: formerly International Toxicology Laboratories).
- SmithKline Beecham Clinical Laboratories, 400 Egypt Road, Norristown, PA 19403, 800-523-5447 (name changed: formerly SmithKline Bio-Science Laboratories).
- SmithKline Beecham Clinical Laboratories, 3175 Presidential Drive, Atlanta, GA 30340, 404-934-9205 (name changed: formerly SmithKline Bio-Science Laboratories).
- SmithKline Beecham Clinical Laboratories, 8000 Sovereign Row, Dallas, TX 75247, 214-638-1301 (name changed: formerly SmithKline Bio-Science Laboratories).
- SmithKline Beecham Clinical Laboratories, 7600 Tyrone Avenue, Van Nuys, CA 91045, 818-376-2520.
- South Bend Medical Foundation, Inc., 530 North Lafayette Boulevard, South Bend, IN 46601, 219-234-4176.
- Southgate Medical Laboratory, Inc., 21100 Southgate Park Boulevard, Cleveland, OH 44137, 800-338-0166.
- St. Anthony Hospital (Toxicology Laboratory), P.O. Box 205, 1000 North Lee Street, Oklahoma City, OK 73102, 405-272-7052.

St. Louis University Forensic Toxicology Laboratory, 3610 Rutgers Avenue, St. Louis, MO 63104, 314-577-8628.

Toxicology & Drug Monitoring Laboratory, University of Missouri Hospital & Clinics, 301 Business Loop 70 West, Suite 208, Columbia, MO 65203, 314-882-1273.

Toxicology Testing Service, Inc., 5426 NW, 79th Avenue, Miami, FL 33166, 305-593-2260.

Charles R. Schuster,
Director, National Institute on Drug Abuse.
[FR Doc. 91-13114 Filed 6-3-91; 8:45 am]
BILLING CODE 4160-20-M

Food and Drug Administration

[Docket No. 88N-0401]

Emerging Issues in Food Safety and Quality for the Next Decade; Report; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of a report entitled "Emerging Issues in Food Safety and Quality for the Next Decade." The report was prepared by the Life Sciences Research Office (LSRO) of the Federation of American Societies for Experimental Biology (FASEB).

DATES: The Report became available on April 25, 1991.

ADDRESSES: Submit written requests for single copies of the report to FASEB's Special Publication Office, Federation of American Societies for Experimental Biology, 9650 Rockville Pike, Bethesda, MD 20814, along with \$12 to cover the cost. In the near future, the report will be available from the National Technical Information Service, 5275 Port Royal Rd., Springfield, VA 22161. Requests should be identified with the docket number found in brackets in the heading of this document. Send two self-addressed adhesive labels to assist these offices in processing your request. The report is available for public examination at the LSRO, FASEB office (address above) and at the Dockets Management Branch (HFA-305), Food and Drug Administration 5600 Fishers Lane, Rockville, MD 20857, between 9 a.m. and 4 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Charles W. Cooper, Center for Food Safety and Applied Nutrition (HFF-3), Food and Drug Administration, 200 C St., SW., Washington, DC 20204, (202) 485-0265.

SUPPLEMENTARY INFORMATION: FDA has a contract (223-88-2124) with FASEB concerning the analysis of scientific issues in food and cosmetic safety. The objective of this contract is to provide information to FDA on general and specific issues of scientific fact associated with food and cosmetic safety.

In the Federal Register of December 19, 1988 (53 FR 51008), FDA announced that it has asked LSRO of FASEB, as a task under the contract, to review and evaluate topics and issues in food safety and food quality that FDA should consider as important scientific concerns emerging in the next decade.

FDA is now announcing that the report entitled "Emerging Issues in Food Safety and Quality for the Next Decade" became available to the public on April 25, 1991.

Dated: May 29, 1991
Gary Dykstra,
Acting Associate Commissioner for
Regulatory Affairs.
[FR Doc. 91-13097 Filed 6-3-91; 8:45 am]
BILLING CODE 4160-01-M

Health Resources and Services Administration

National Organ Transplant Act; Grants to Increase Organ Donation

AGENCY: Health Resources and Services Administration; HHS.

ACTION: Notice of availability of grant funds.

SUMMARY: The Health Resources and Services Administration (HRSA), announces that fiscal year (FY) 1991 funds are available for grants for assistance to Organ Procurement Organizations (OPOs) and other nonprofit private entities to increase organ donation. The grants are authorized by sections 371 and 374 of the Public Health Service (PHS) Act, as amended by Public Law 101-616. Funds are appropriated under Public Law 101-517.

DATES: To receive consideration, grant applications must be received by the close of business August 5, 1991. Applications will meet the deadline if they are either: (1) Received on or before the deadline date; or (2) postmarked on or before the deadline date and received in time for submission to the review committee. A legibly dated receipt from a commercial carrier or U.S. Postal Service will be accepted in lieu of a postmark. Private metered postmarks will not be acceptable as proof of timely mailing. Hand delivered applications must be received by 5 p.m. August 5,

1991. Applications received after the deadline will be returned to the applicant.

FOR FURTHER INFORMATION CONTACT: Additional information relating to technical or program issues may be obtained from Mr. Remy Aronoff, Chief, Operations and Analysis Branch, Division of Organ Transplantation, Parklawn Building, room 11A-22, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443-7577. Grant applications and additional information regarding business, administrative or fiscal issues related to the awarding of grants under this Notice may be requested from the Grants Management Officer (GMO), Ms. Glenna B. Wilcom, Parklawn Building, room 13A-38, 5600 Fishers Lane, Rockville, Maryland 20857, telephone (301) 443-2280. Applicants for grants will use Form PHS 5161-1, approved under OMB Control Number 0937-0189. Completed applications should be sent to the GMO.

SUPPLEMENTARY INFORMATION:

Background and Objective

Section 371 of the Public Health Service (PHS) Act authorizes a program of grants and special projects for the purpose of increasing the number of organ donors.

Previously, grant awards could only be made to OPOs. Consistent with section 201 of the Transplant Amendments of 1990 other nonprofit entities are now eligible to receive grant awards to increase organ donation.

The Public Health Service urges applicants to submit work plans that address specific objectives of Healthy People 2000. Potential applicants may obtain a copy of Healthy People 2000 (Full Report; Stock No. 017-001-00474-0) or Healthy People 2000 (Summary Report; Stock No. 017-001-00473-1) through the Superintendent of Documents, Government Printing Office, Washington, DC 20402-9325 (Telephone 202-783-3238).

Types of Grants and Program Priorities

The principal purpose of this grant program is to increase the availability of organ donors in this country by improving the overall organ procurement system. To accomplish the objective of increasing organ donors, grants will be awarded to OPOs and other nonprofit entities consistent with the statute as specified in this Notice.

Five of the 11 suggested activities are for projects designed to increase minority organ donation. This focus on minority donation results both from a relatively low donation rate among minorities and recent studies which

show that Blacks spend markedly longer times on the kidney transplantation waiting list. Other differences that have been found between Blacks and whites that relate to the success of transplantation and donation are: (1) 95 percent of the white population is knowledgeable about organ transplantation, whereas only 84 percent of Blacks are; (2) 27 percent of whites are willing to donate their organs after death, but only 10 percent of Blacks are willing to do so; (3) 10 percent of clinically eligible Blacks opt for transplantation, compared to 20 percent of clinically eligible whites; (4) transplants are 10 to 20 percent less successful in Blacks than in whites because of matching variables; (5) transplantation histocompatibility antigens have not been as well defined in Blacks as in whites; (6) Blacks in the United States with hypertension suffer from end-stage renal disease four times as frequently as do whites. Some specific examples of activities that are suggested for this project year are the following:

1. Consolidation of organ and tissue recovery programs in order to increase efficiency in procurement efforts and services to donor hospitals. In some areas there is dysfunctional competition among recovery organizations. Applicants should specify how consolidation will lead to more efficient organ and tissue recovery.

2. Demonstration programs designed to test new approaches to the organ donation process. Such programs might include the applications of more effective managerial techniques for the administration of organ procurement organizations.

3. Demonstration programs to increase minority donation. Minority donation rates are lower than the minority representation in the total population.

4. Development, implementation and evaluation of a campus-wide campaign to increase awareness and information about organ donation and transplantation among students and alumni of Historically Black Colleges and Universities. The contact points in such a project could include classrooms, fraternities and sororities, clubs, and correspondence with students and alumni.

5. Development and testing of a curriculum to increase awareness in young children of the potential of transplantation and of the need for organ and tissue donation. Projects in this category should include methods for effective dissemination of the resulting curriculum.

6. Development and field testing of materials and methods to train primary

care physicians and other health care professionals to encourage their patients to consider organ donation if the occasion arises. The primary care physician is, for most people, the most frequent contact with the medical profession.

7. Education programs to recruit and/or train minority nurses, social workers, physicians assistants, and persons from other professional groups from which transplant and procurement coordinators and educators are recruited. The objective is to enlarge the number of minorities who know about the organ procurement coordinator profession and who can be qualified candidates for procurement and community education positions. Activities that should be considered for such projects are development of training programs in conjunction with professional associations' annual conferences and internships for trainees with organ procurement organizations.

8. Examination of methods and a pilot study to increase the usefulness of donor cards. Even though donor cards do not serve as a mechanism for presumed consent, they are one of the primary means by which the public is made aware of organ donation. For example, it would be useful to know the demographic profile of the persons signing organ donor cards at the motor vehicle administration and approaches for increasing that number.

9. Development and operation of a local, regional or national minority speakers' bureau available to provide expert speakers to minority audiences.

10. Survey of attitudes and conduct of focus groups to determine how negative attitudes toward organ donation and transplantation can be changed.

11. Survey of white and Black donor and non-donor families to identify reasons for consenting to or declining the donation request.

Other activities which would increase the number of organ donors and which are not reimbursable under Medicare may be considered.

Availability of Funds

Up to \$400,000 is available in FY 1991 for grants to OPOs and other nonprofit private entities. Each grant will be for a period of one year and generally will not exceed \$75,000. The Bureau of Health Resources Development expects to issue six awards with an average award of approximately \$70,000.

Eligible Applicants

Prior to this year only nonprofit OPOs designated by the Health Care Financing Administration under section 1138(b) of

the Social Security Act could apply for these grants.

This year any nonprofit private entity whose application has increasing organ donation as its primary objective may apply. Joint applications of two or more eligible entities may be submitted. In such instances, one eligible institution must be designated as the grantee institution on the Application for Federal Assistance.

Application Evaluation Criteria

Grant applications will be evaluated by an objective review committee according to the following criteria:

- The consistency with the program objective;
- The adequacy of the method(s) proposed to carry out the project;
- The appropriateness of the work plan and schedule for organizing and completing the project;
- The capability of the organization to complete the project as proposed;
- The adequacy of supporting documentation justifying the proposal;
- The reasonableness of the budget;
- The qualifications of the project director and staff.

Allowable Costs

As a policy, HRSA will not award grants to organ procurement organizations for costs that are routinely reimbursable under the Medicare program for activities such as public or professional education, hospital costs, overhead costs and tissue typing costs. Costs that are not reimbursable under the Medicare program and therefore eligible for grant award, are research or other activities related to increasing the availability of solid extrarenal organs.

The basis for determining the allowability and allocability of costs charged to PHS grants is set forth in 45 CFR part 74, subpart Q. The three separate sets of cost principles prescribed for recipients of grants for OPOs and other nonprofit entities are: OMB Circular A-21 for institutions of higher education; 45 CFR part 74, appendix E for hospitals; and OMB Circular A-122 for nonprofit organizations.

Reporting Requirements

A successful applicant under this Notice will submit reports in accordance with the provisions of the general regulations which apply under 45 CFR part 74, subpart J, Monitoring and Reporting Program Performance.

A semi-annual and final progress report will be required of grantees.

Executive Order 12372

Grants awarded under this Notice are subject to the provisions of Executive Order 12372, as implemented by 45 CFR part 100, which allows States the option of setting up a system for reviewing applications within their State for assistance under certain Federal programs. The application packages made available by HRSA will contain a listing of States which have chosen to set up such a review system and will provide a point of contact in the State for the review. Applicants (other than federally recognized Indian tribes) should promptly contact their State Single Point of Contact (SPOC) and follow the SPOC's instructions prior to the submission of an application. For proposed projects serving more than one State, the applicant is advised to contact the SPOC of each affected State. The SPOC has 60 days after the application deadline date to submit its review comments. The granting agency does not guarantee to "accommodate or explain" for State process recommendations applications it receives after that date.

The OMB Catalog of Federal Domestic Assistance Number for this program is 93.134.

Grantee Financial Participation Requirements

There is no cost sharing or matching funds requirement for this program.

Dated: April 25, 1991.

Robert Harmon,
Administrator.

[FR Doc. 91-13145 Filed 6-3-91; 8:45 am]

BILLING CODE 4150-15-M

Availability of Funds for New Community Health Centers and Expanded Community Health Center Activities

AGENCY: Health Resources and Services Administration, HHS.

ACTION: Notice of Availability of Funds.

SUMMARY: The Health Resources and Services Administration announces the availability of discretionary grant funds of approximately \$4.5 million under section 330 of the Public Health Service (PHS) Act to establish new community health centers (CHCs) and expand the capacity of existing community health centers. Within the context of a comprehensive system to deliver primary care to medically underserved populations, emphasis will be placed on innovative and creative approaches to bringing women at high risk for poor birth outcomes into the health services delivery system. Approximately 6 to 12

awards will be made, ranging from \$400,000 to \$800,000. Approximately half of these awards will be for new CHCs and half will be for the expansion of existing CHCs. All awards are for one year, with project periods of up to two years. The PHS is committed to achieving the health promotion and disease prevention objectives of Healthy People 2000, a PHS-led national activity for setting priority areas. The community health center program directly addresses the Healthy People 2000 objectives by improving access to preventive and primary care services for underserved populations, especially minority and other disadvantaged populations. Potential applicants may obtain a copy of *Healthy People 2000* (Full Report; Stock No. 017-001-00474-0) or *Healthy People 2000* (Summary Report; Stock No. 017-001-00473-01) through the Superintendent of Documents, Government Printing Office, Washington, DC 20402-9325 (Telephone 202-783-3238).

ADDRESSES: The PHS Regional Grants Management Officers (RGMOs) whose names and addresses are provided in the appendix to this document are responsible for distributing application kits and guidance (Form PHS 5161-1 with revised face sheets DHHS Form 424, as approved by the OMB under control numbers 0348-0043 and 0937-0189), and completed applications must be submitted to them. Application kits contain guidance information which incorporates new and updated program requirements arising from changes in the program's authorizing legislation. Potential applicants, either existing grantees or new organizations, should contact the appropriate RGM. The RGM can also provide assistance on business management issues.

DATES: Applications are due July 5, 1991. Applications shall be considered to have met the deadline if they are: (1) Received on or before the deadline date; or (2) postmarked before the deadline date and received in time for orderly processing. Untimely applications will be returned to the applicant. Applicants should obtain a legibly dated receipt from a commercial carrier or U.S. Postal Service or request a legibly dated U.S. Postal Service postmark. Private metered postmarks shall not be accepted as proof of timely mailing.

FOR FURTHER INFORMATION CONTACT: For general program information and technical assistance, contact Richard C. Bohrer, Director, Division of Primary Care Services, 5600 Fishers Lane, room 7A-55, Rockville, MD 20857 (301) 443-2260.

ELIGIBLE APPLICANTS: Eligible applicants are existing federally-funded CHCs or public or private nonprofit organizations. Applicants must provide services to areas and/or populations that include Medically Underserved Areas (MUAs) or Medically Underserved Populations (MUPs) officially designated by the Public Health Service. Applicants through their staffs and supporting resources must be able to provide to residents of their service areas services required under section 330(a) of the Public Health Service Act, including primary health and ancillary services, as defined in section 330(b)(1) of the Public Health Service Act, and supplemental services necessary to ensure the effectiveness of the required primary health services, as described in section 330(b)(2) of the Act. Applicants must have established governing boards composed of individuals, the majority of whom are or will be served by the center and who, as a group, represent the individuals being served or will be served by the center. The applicant's catchment area must be exclusive of the area served by another federally funded community or migrant health center.

SUPPLEMENTARY INFORMATION**Program Requirements**

Applicants are required to submit as part of their applications a project description and a project plan as well as a reasonable budget to deliver the proposed services based on the health needs it intends to address, sound estimates of revenue and expenses, and realistic projections of service utilization.

Use of Funds

Funds may not be used to supplant existing resources. Funds may not be used to support major capital improvement projects, i.e., projects the costs of which will exceed \$100,000. They may be used to establish and operate a new service delivery site through an existing federally-funded CHC or new applicant for CHC funding, or to significantly expand the capacity to provide primary care services at existing sites of current grantees, including the addition of providers and support costs.

Criteria for Evaluation

When determining whether Federal support will be made available, the Department will first review applications for compliance with standard criteria stipulated in the program regulations (42 CFR 51c.305). These are:

(1) The relative need of the population to be served for the services to be provided; specifically, demonstration of community need based on such factors as high infant mortality rates and the number of infant deaths (total, black or other relevant minority populations), high poverty rates (25% or more), concentrations of minority populations (25% or more), shortages of necessary health professionals to meet the needs of the populations, and lack of availability of health care services due to barriers such as limited access and the inability to pay for services;

(2) The extent to which the applicant's project plan meets the program requirements stipulated in statute (42 CFR 51c.305) and explained in the program guidance;

(3) The soundness of the fiscal plan for assuring effective utilization of grant funds and maximizing non-grant revenue;

(4) The administrative and management capability of the applicant, particularly the extent to which center operations will emphasize efficiency of operations and sound financial management;

(5) The degree to which the applicant intends to integrate services supported by a grant with other health services provided under other Federally assisted health services or reimbursement programs or projects as well as the degree of collaboration with State and local health departments and other health and social services providers;

(6) The extent to which community resources will be utilized by the project;

(7) The extent to which the center will provide preventive health services so as to maintain and improve the health status of the population served; and

(8) The potential of the center for the development of new and effective methods for health services delivery and management.

In evaluating applications, preference will be given to applicants which propose to:

(1) Provide a comprehensive package of outreach and case-managed prenatal, delivery, post-partum and infant care services;

(2) Serve populations which experience high rates of infant mortality and a significant number of infant deaths;

(3) Use outstationed Medicaid eligibility worker(s) on-site; and

(4) Provide WIC services at the center.

Final grant awards will be made in such a manner as to provide for an appropriate distribution of resources throughout the country in both urban and rural areas.

Other Award Information: All grants to be awarded under this notice are subject to the provisions of Executive Order 12372, as implemented by 45 CFR part 100, which allows States the option of setting up a system for reviewing applications from within their States for assistance under certain Federal programs. The application kit will contain a listing of States which have chosen to set up a review system and will identify a State Single Point of Contact (SPOC) in each State for the review. Applicants (other than federally-recognized Indian tribal governments) should contact their SPOCs as early as possible to alert them to the prospective applications and receive any necessary instructions on State process. For proposed projects serving more than one State, the applicant is advised to contact the SPOC of each affected State. State process recommendations should be submitted to the appropriate Regional Office (see Appendix). The due date for State process recommendations is 60 days after the appropriate application deadline date. The Bureau of Health Care Delivery and Assistance does not guarantee that it will accommodate or explain its response to State process recommendations received after this date.

In the OMB Catalog of Federal Domestic Assistance, the Community Health Center program is listed as Number 93.224.

Dated: April 24, 1991.

Robert G. Harmon,
Administrator.

Appendix—Regional Grants Management Officers

Region I

Mary O'Brien, Grants Management Officer,
PHS Regional Office I, John F. Kennedy
Federal Building, Boston, MA 02203 (617)
565-1482

Region II

Steven Wong, Grants Management Officer,
PHS Regional Office II, Room 3300, 26
Federal Plaza, New York, NY 10278 (212)
264-4496

Region III

Finbarr O'Connell, Acting Grants
Management Officer, PHS Regional Office
III, P.O. Box 13716, Philadelphia, PA 19101
(215) 596-6653

Region IV

Wayne Cutchens, Grants Management
Officer, PHS Regional Office IV, Room
1106, 101, Marietta Tower, Atlanta, GA
30323 (404) 331-2597

Region V

Lawrence Poole, Grants Management Officer,
PHS Regional Office V, 105 West Adams
Street, 17th Floor, Chicago, IL 60603 (312)
353-8700

Region VI

Frank Cantu, Grants Management Officer,
PHS Regional Office VI, 1200 Main Tower,
Dallas, TX 75202 (214) 767-3885

Region VII

Hollis Hensley, Grants Management Officer,
PHS Regional Office VII, Room 501, 601
East 12th Street, Kansas City, MO 64018
(816) 426-5841

Region VIII

Jerry F. Wheeler, Grants Management
Officer, PHS Regional Office VIII, 1961
Stout Street, Denver, CO 80294 (303) 844-
4461

Region IX

Linda Gash, Grants Management Officer,
PHS Regional Office IX, 50 United Nations
Plaza, San Francisco, CA 94102 (415) 556-
2595

Region X

James Tipton, Grants Management Officer,
PHS Regional Office X, Mail Stop RX 20,
2201 Sixth Avenue, Seattle, WA 98121 (206)
553-7997

[FR Doc. 91-13146 Filed 6-3-91; 8:45 am]

BILLING CODE 4160-15-M

National Institutes of Health

National Center for Research Resources General Clinical Research Centers Committee; Meeting

Pursuant to Public Law 92-463, notice is hereby given of the meeting of the General Clinical Research Centers (GCRC) Committee, National Center for Research Resources (NCRR), June 18-19, 1991, Holiday Inn, Chevy Chase, 5520 Wisconsin Avenue, Chevy Chase, Maryland 20815.

The meeting will be open to the public on June 18, 1991, from 8 a.m. to 9:15 a.m. during which time there will be comments by the Director, NCRR; and an update on the General Clinical Research Centers Program by Dr. Judith L. Vaitukaitis, Director, GCRC, NCRR. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in secs. 552b(c)(4) and 552b(c)(6), title 5, U.S. Code and sec. 10(d) of Public Law 92-463, the meeting will be closed to the public on June 18, from 9:15 a.m. until recess, and on June 19, from 8 a.m. until adjournment, for the review, discussion, and evaluation of individual grant applications. These applications and the discussions could reveal confidential trade secrets or commercial property, such as patentable material, and personal information concerning individuals associated with the applications, disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Mr. James J. Doherty, Information Officer, NCRR, Westwood Building, room 10A15, National Institutes of Health, Bethesda, Maryland 20892 (301) 496-5545, will provide a summary of the meeting, and a roster of the committee members upon request. Dr. Bela J. Gulyas, Scientific Review Administrator, General Clinical Research Centers Committee, NCRR (301) 402-0627, will furnish information on the agenda upon request.

(Catalog of Federal Domestic Assistance Program No. 93.333, Clinical Research, National Institutes of Health)

Dated: May 15, 1991.

Betty J. Beveridge,
Committee Management Officer, NIH.
[FR Doc. 91-13090 Filed 6-3-91; 8:45 am]

BILLING CODE 4140-01-M

National Institute on Aging Meetings

Pursuant to Public Law 92-463, notice is hereby given of meetings of the Neurological, Behavior and Sociology of Aging Review Subcommittee A and the Biological and Clinical Aging Review Subcommittee B.

These meetings will be open to the public as indicated below to discuss administrative details and other issues relating to committee activities as indicated in the notice. Attendance by the public will be limited to space available.

These meetings will be closed to the public as indicated below in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), title 5, U.S.C. and sec. 10(d) of Public Law 92-463, for the review, discussion, and evaluation of individual research grant applications. These applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Ms. June C. McCann, Committee Management Officer, National Institute on Aging, Building 31, room 5C02, National Institutes of Health, Bethesda, Maryland 20892 (301/496-9322), will provide summaries of the meetings and rosters of the committee members upon request.

Other information pertaining to the meetings can be obtained from the Executive Secretary indicated.

Name of Subcommittee: Neurological, Behavior and Sociology of Aging Review Subcommittee A.

Executive Secretary: Dr. Maria Mannarino, Dr. Louise Hsu, Building

31, room 5C12, National Institutes of Health, Bethesda, Maryland 20892, phone: 301/496-9666.

Dates of Meeting: June 18-21, 1991.

Place of Meeting: Bethesda Ramada Inn, 8300 Wisconsin Avenue, Bethesda, Maryland 20814.

Open: June 18, 7:30 p.m. to recess.

Closed: June 19-21, 8:30 a.m. to adjournment.

Name of Committee: Biological and Clinical Aging, Review Subcommittee B.

Executive Secretaries: Dr. James Harwood, Building 31, room 5C12, National Institutes of Health, Bethesda, Maryland 20892, phone: 301/496-9666.

Dates of Meeting: June 3-5, 1991.

Place of Meeting: Building 31, Conference Room 8.

Open: June 3-8 p.m. to recess.

Closed: June 4-5-8:30 a.m. to adjournment.

(Catalog of Federal Domestic Assistance Program No. 13.866, Aging Research, National Institutes of Health)

Dated: May 15, 1991.

Betty J. Beveridge,
Committee Management Officer, NIH.
[FR Doc. 91-13091 Filed 6-3-91; 8:45 am]

BILLING CODE 4140-01-M

National Center for Research Resources; Meeting of the Animal Resources Review Committee

Pursuant to Public Law 92-463, notice is hereby given of a meeting of the Animal Resources Review Committee, National Center for Research Resources, National Institutes of Health.

The meeting will be held on June 10, 1991, at the National Institutes of Health, 9000 Rockville Pike, Building 31, C Wing, Conference Room 9, Bethesda, Maryland 20892. The meeting will be open to the public from 10 a.m. to 10:30 a.m. on June 10, 1991 for a brief staff presentation on the current status of the Comparative Medicine Program (The Animal Resources Program has been retitled to Comparative Medicine Program) and the selection of future meeting dates. Attendance by the public will be limited space available.

In accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), title 5, U.S.C. and section 10(d) of Public Law 92-463, the meeting will be closed to the public on June 10 from 8 a.m. until 10 a.m. and from 10:30 a.m. until adjournment for the review, discussion and evaluation of individual grant applications. These applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material

and personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Mr. James J. Doherty, Information Officer, National Center for Research Resources, 5333 Westbard Avenue, room 10A15, Bethesda, Maryland 20892, (301) 496-5545, will provide a summary of the meeting and a roster of the committee members upon request.

Dr. Arthur D. Schaerdel, Scientific Review Administrator of the Animal Resources Review Committee, Office of Review, National Center for Research Resources, National Institutes of Health, 5333 Westbard Avenue, Room 10A16, Bethesda, Maryland 20892, (301) 496-4390, will furnish substantive program information upon request.

(Catalog of Federal Domestic Assistance Programs No. 93.306, Laboratory Animal Sciences, National Institutes of Health)

Dated: May 16, 1991.

Betty J. Beveridge,
Committee Management Officer, NIH.
[FR Doc. 91-13089 Filed 5-30-91; 9:09 am]

BILLING CODE 4140-01-M

Public Health Service

Agency for Health Care Policy and Research; Title XXVI of the Public Health Service Act, HIV Health Care Services Program; Delegation of Authority

Notice is hereby given that in furtherance of the delegation of authority to the Assistant Secretary for Health on February 21, 1991, (56 FR 9226) by the Secretary of Health and Human Services, the Assistant Secretary for Health has delegated to the Administrator, Agency for Health Care Policy and Research (AHCPR), the following authorities under title XXVI of the Public Health Service Act, as amended, pertaining to the HIV Health Care Services Program: All of the authorities under section 2673, pertaining to the establishment of a Research, Evaluation, and Assessment Program.

The delegation excluded the authorities to promulgate regulations, submit reports to Congress or a congressional committee, establish advisory committees and councils, and select members of advisory councils.

Redelegation

This authority may be redelegated.

Prior Delegations

None.

Effective Date

This delegation became effective on May 24, 1991.

Dated: May 24, 1991.

James O. Mason,

Assistant Secretary for Health.

[FR Doc. 91-13147 Filed 6-3-91; 8:45 am]

BILLING CODE 4160-90-M

Centers for Disease Control; Ryan White Comprehensive AIDS Resources Emergency Act of 1990, Public Law 101-381; Delegation of Authority

Notice is hereby given that in furtherance of the February 21, 1991, delegation of authorities under the Ryan White Comprehensive AIDS Resources Emergency Act of 1990 (Pub. L. 101-381), as amended hereafter, from the Secretary of Health and Human Services to the Assistant Secretary for Health (43 FR 9226), I have delegated, with authority to redelegate, these authorities to the Director, Centers for Disease Control, insofar as the authorities pertain to the functions assigned to the Centers for Disease Control.

1. Under title XXVI of the Public Health Service Act, as amended, the following authorities:

- Sections 2641-2650—Formula Grants for States.
- Sections 2661-2667—General Provisions.
- Section 2675—Coordination.
- Section 2680—Grants to States and political subdivisions of States to implement guidelines and model curriculum for health workers and public safety workers, including emergency response employees.
- Section 2681—Infectious Diseases and Circumstances Relevant to Notification Requirements.

2. Under the Ryan White Comprehensive AIDS Resources Emergency Act of 1990, as amended hereafter, the following authorities:

- Section 402—Study Regarding Partner Notification.
- Section 403—Study Regarding HIV Disease in Rural Areas.

The delegation excluded the authorities to promulgate regulations and to submit reports to the Congress.

This delegation became effective on May 24, 1991. In addition, I have affirmed and ratified any actions taken by the Director, Centers for Disease Control, or his subordinates which, in effect, involved the exercise of the authorities delegated herein prior to the effective date of the delegation.

Dated: May 24, 1991.

James O. Mason,

Assistant Secretary for Health.

[FR Doc. 91-13148 Filed 6-3-91; 8:45 am]

BILLING CODE 4160-18-M

Food and Drug Administration; Ryan White Comprehensive AIDS Resources Emergency Act of 1990, Public Law 101-381; Delegation of Authority

Notice is hereby given that in furtherance of the delegation of authority to the Assistant Secretary for Health on February 21, 1991, by the Secretary of Health and Human Services, the Assistant Secretary for Health has delegated to the Commissioner of Food and Drugs authority under title XXVI of the Public Health Service Act, section 2672, Provisions Relating to Blood Banks, as amended, insofar as this authority pertains to the functions of the Food and Drug Administration.

This delegation excludes the authority to promulgate regulations, submit reports to the Congress, establish advisory committees or national commissions, and appoint members to such committees or commissions.

In addition the Assistant Secretary for Health affirms and ratifies any actions taken by FDA involving the exercise of the authorities delegated herein prior to the effective date of the delegation.

Effective Date

This delegation became effective on May 24, 1991.

Dated: May 24, 1991.

James O. Mason,

Assistant Secretary for Health.

[FR Doc. 91-13149 Filed 6-3-91; 8:45 am]

BILLING CODE 4160-01-M

DEPARTMENT OF THE INTERIOR**Bureau of Land Management**

[UTO80-91-4830-02]

AGENCY: Bureau of Land Management.

ACTION: Notice of advisory council tour and business meeting.

SUMMARY: As authorized by the Federal Land Policy and Management Act, section 309. (a) and (b), the Vernal District will conduct an Advisory Council tour and business meeting on July 19, 1991. The tour will commence at 8 a.m. from the Vernal District Office located at 170 South 500 East. The tour will include a visit to some of the areas proposed for acquisition as a part of the Book Cliffs Conservation Initiative. It will also provide a view of the proposed

Ouray-Cisco Highway route and alternatives being considered. The tour will arrive back in Vernal at approximately 5:30 p.m.

The business meeting will be held in the new Western Park Conference Room located at 350 East 200 South, commencing at 7 p.m.

The business meeting agenda is as follows:

1. Follow-up discussion of the Book Cliffs Conservation Initiative and the proposed Ouray-to-Cisco Highway.
2. Update on the Diamond Mountain Resource Area Management Plan and a discussion of the management alternatives being considered.
3. Discussion of the BLM's road maintenance program.
4. Land exchanges.
5. Oil and gas activities and current issues.

6. Concern about wild horses in Agency Draw.

7. Additional items identified by council members or the public.

The public is welcome to tour with the group and to attend the business meeting; however, they would need to supply their own transportation and food. Persons desiring to make a statement at the business meeting must contact the Vernal District Manager no later than close-of-business on Wednesday, July 17, 1991.

FOR FURTHER INFORMATION CONTACT: R. Ray Tate, Public Affairs Specialist, telephone (801) 789-1362.

Dated: May 23, 1991.

Gary Hunter,

Chief, Operations.

[FR Doc. 91-13072 Filed 6-3-91; 8:45 am]

BILLING CODE 4310-DQ-M

[UT-020-00-4212-13; U-66674]

Salt Lake District; Realty Action

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of realty action. Exchange of lands in Wasatch County, Utah.

SUMMARY: The following described public land is being considered for exchange pursuant to Section 206 of the Federal Land Policy and Management Act of 1976, (43 U.S.C. 1716):

Description	Acres
T. 2S., R. 4E. SLM Sec. 24, Lots 2,9,10,11,12,13,14, Total acres	57.64

Final determination on the exchange will await completion of an environmental analysis. In accordance with the regulations in 43 CFR 2201.1(b), the publication of this notice will segregate the public lands as described above, from appropriation under the public land laws, including the mining laws, but not the mineral leasing laws.

Information on the exchange is available from the District Manager, Bureau of Land Management, Salt Lake District Office, 2370 South 2300 West, Salt Lake City, Utah 84119.

Deane H. Zeller,

Salt Lake District Manager.

[FR Doc. 91-13121 Filed 6-3-91; 8:45 am]

BILLING CODE 4310-DQ-M

[NV-930-01-4212-14; N-52353]

Elko County, NV

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Realty Action—Direct Sale of Public Lands in Elko County, Nevada.

SUMMARY: The following land has been examined and identified as suitable for disposal by direct sale under section 203 of the Federal Land Policy and Management Act of 1976 (90 Stat. 2750; 43 U.S.C. 1713) at no less than fair market value:

Mount Diablo Meridian, Nevada

T. 42 N., R. 60 E.

Sec. 19, NW¼NW¼NE¼.

The above-described land comprising 10 acres is being offered as a direct sale to Hawks and Sons Ranches, adjoining land owners. A direct sale is being conducted to resolve an unauthorized use and occupancy of the public lands. The sale would assure land use compatibility with adjoining lands and protect investments in improvements made to the lands by the Hawks.

The sale is consistent with the Bureau's planning system. The land is not needed for any resource program and is not suitable for management by the Bureau or any other Federal department or agency.

The locatable and salable mineral estates have been determined to have no known value. The land is prospectively valuable for oil and gas. Therefore, the mineral interest, excluding oil and gas, would be conveyed simultaneously with the sale of the parcel. Acceptance of the direct sale offer will constitute an application to purchase the mineral estate having no known value. A nonrefundable fee of \$50.00 will be required with the

purchase money. Failure to submit the purchase money and the nonrefundable filing fee for the mineral estate within the timeframe specified by the authorized officer will result in cancellation of the sale.

The patent, when issued, will contain the following reservations to the United States:

1. A right-of-way thereon for ditches and canals constructed by the authority of the United States, Act of August 30, 1890, 26 Stat. 391; 43 U.S.C. 945.

2. Oil and gas.

Upon publication of this Notice of Realty Action in the *Federal Register*, the lands will be segregated from all forms of appropriation under the public land laws, including the mining laws but not the mineral leasing laws. The segregation shall terminate upon issuance of patent or other document of conveyance, upon publication in the *Federal Register* of a termination of segregation or 270 days from publication, whichever occurs first.

The land will not be offered for sale any sooner than 60 days after the publication of this Notice in the *Federal Register*. For a period of 45 days from the date of publication of this Notice in the *Federal Register*, interested parties may submit comments to the District Manager, Elko District Office, Bureau of Land Management, P.O. Box 831, Elko, Nevada 89801. Any adverse comments will be evaluated by the Nevada State Director, who may sustain, vacate or modify this realty action. In the absence of timely filed objections, this realty action will become the final determination of the Department of the Interior.

Dated: May 21, 1991.

Rodney Harris,

District Manager.

[FR Doc. 91-13108 Filed 6-3-91; 8:45 am]

BILLING CODE 4310-HC-M

[NV-930-00-4214-10; N-52757]

Proposed Withdrawal and Opportunity for Public Meeting; Nevada

May 24, 1991.

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The Bureau of Land Management proposes to withdraw 11.6 acres of public land to protect Blue Link Spring and its associated reservoir located near Mina, Nevada. This notice closes the land for up to 2 years from settlement, sale, location and entry under the general land laws, including the United States mining laws. The land

will remain open to leasing under the mineral leasing laws.

DATES: Comments and requests for a public meeting should be received on or before September 3, 1991.

ADDRESSES: Comments and meeting requests should be sent to the Nevada State Director, BLM, P.O. Box 12000, Reno, Nevada 89520.

FOR FURTHER INFORMATION CONTACT: Vienna Wolder, BLM Nevada State Office, 702-785-6526.

SUPPLEMENTARY INFORMATION: On May 16, 1991, a petition was approved allowing the Bureau of Land Management to file an application to withdraw the following described public land from settlement, sale, location and entry under the public land laws, including the mining laws, subject to valid existing rights:

Mount Diablo Meridian

T. 5 N., R. 37 E.,

sec. 5 (Unsurveyed)

An area 400 feet in radius around Blue Link Spring and the adjoining reservoir. The center of the withdrawal is located at the midpoint between the spring and reservoir, approximately 86.5 feet from either. The area contains 11.6 acres in Mineral County.

For a period of 90 days from the date of publication of this notice, all persons who wish to submit comments, suggestions, or objections in connection with the proposed withdrawal may present their views in writing to the undersigned officer of the Bureau of Land Management.

Notice is hereby given that an opportunity for a public meeting is afforded in connection with the proposed withdrawal. All interested persons who desire a public meeting for the purpose of being heard on the proposed withdrawal, must submit a written request to the undersigned officer within 90 days from the date of publication of this notice. Upon determination by the authorized officer that a public meeting will be held, a notice of time and place will be published in the *Federal Register* at least 30 days before the scheduled date of the meeting.

The application will be processed in accordance with the regulations set forth in 43 CFR part 2300.

For a period of 2 years from the date of publication of this notice in the *Federal Register*, the lands will be segregated as specified above unless the application is denied or canceled or the withdrawal is approved prior to that date. The temporary uses which may be permitted during this segregative period

by the BLM authorized officer are any temporary uses which will not interfere with the purpose of the withdrawal.

The temporary segregation of the lands in connection with this withdrawal application shall not affect the administrative jurisdiction over the lands, and the segregation shall not have the effect of authorizing any use of the lands.

Robert G. Steele,

Deputy State Director, Operations.

[FR Doc. 91-13109 Filed 6-3-91; 8:45 am]

BILLING CODE 4310-NC-M

JOINT BOARD FOR THE ENROLLMENT OF ACTUARIES

Advisory Committee on Actuarial Examinations; Meeting

Notice is hereby given that the Advisory Committee on Actuarial Examinations will meet in room 3001, Ariel Rios Federal Building, 1200 Pennsylvania Avenue, NW, in Washington, DC on June 24 and 25, 1991, from 8:30 a.m. to 5 p.m. each day.

The purpose of the meeting is to discuss topics and questions which may be recommended for inclusion on future Joint Board examinations in actuarial mathematics and methodology referred to in title 5 U.S. Code, section 1242(a)(1)(B) and to review the May 1991 Joint Board examination in order to make recommendations relative thereto, including the minimum acceptable pass score. Topics for inclusion on the syllabus for the Joint Board's examination program for the November 1991 pension actuarial examination and the May 1992 basic actuarial examinations will be discussed.

A determination has been made as required by section 10(d) of the Federal Advisory Committee Act (Pub. L. 92-463) that the portions of the meeting dealing with the discussion of questions which may appear on the Joint Board's examinations and review of the May 1991 Joint Board examination fall within the exceptions to the open meeting requirement set forth in Title 5 U.S. Code, section 552(c)(9)(B), and that the public interest requires that such portions be closed to public participation.

The portion of the meeting dealing with the discussion of the Joint Board examination syllabus will commence at 1:30 p.m. on June 24 and will continue for as long as necessary to complete the discussion, but not beyond 3 p.m. this portion of the meeting will be open to the public as space is available. Time permitting after discussion of the program by Committee members,

interested persons may make statements germane to this subject. Persons wishing to make oral statements are requested to notify the Committee Management Officer in writing prior to the meeting in order to aid in scheduling the time available, and should submit the written text, or, at a minimum, an outline of comments they propose to make orally. Such comments will be limited to ten minutes in length. Any interested person also may file a written statement for consideration by the Joint Board and Committee by sending it to the Committee Management Officer. Notifications and statements should be mailed no later than June 10, 1991 to Mr. Leslie S. Shapiro, Joint Board for the Enrollment of Actuaries, c/o U.S. Department of the Treasury, Washington, DC 20220.

Dated: May 28, 1991.

Leslie S. Shapiro,

Advisory Committee Management Officer,
Joint Board for the Enrollment of Actuaries.

[FR Doc. 91-13112 Filed 6-3-91; 8:45 am]

BILLING CODE 4810-25-M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 91-49]

NASA Advisory Council, Space Science and Applications Advisory Committee, Exploration Science Working Group; Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting cancellation
Federal Register Citation of Previous Announcement: 56 FR 23600, Notice Number 91-43, May 22, 1991.

Previously Announced Times and Dates of Meeting: June 4, 1991, 8:30 a.m. to 5 p.m. Meeting has been cancelled.

Contact Person for More Information: Dr. Carl Pilcher, Code S, National Aeronautics and Space Administration, Washington, DC 20546 (202/453-1422).

Dated: May 29, 1991.

John W. Gaff,

Advisory Committee Management Officer,
National Aeronautics and Space Administration.

[FR Doc. 91-13092 Filed 6-3-91; 8:45 am]

BILLING CODE 7510-01-M

NATIONAL FOUNDATION ON THE ARTS AND HUMANITIES

Cooperative Agreement To Help Administer Applicant Evaluations

AGENCY: National Endowment for the Arts.

ACTION: Notification of availability.

SUMMARY: The National Endowment for the Arts is requesting proposals leading to the award of a Cooperative Agreement with a qualified individual or organization to assist the Endowment's Opera-Musical Theater Program in the administration of on-site artistic and/or administrative evaluations of grant applications or grantees. The task includes coordinating travel arrangements for designated evaluators, reviewing travel expenditure reports, disbursing funds to evaluators, maintaining records, and furnishing reports. Those interested in receiving the Solicitation package should reference Program Solicitation PS 91-09 in their written request and include two (2) self-addressed labels. Verbal requests for the Solicitation will not be honored.

DATES: Program Solicitation PS 91-09 is scheduled for release approximately June 10, 1991 with proposals due July 10, 1991.

ADDRESSES: Requests for the Solicitation should be addressed to the National Endowment for the Arts, Contracts Division, room 217, 1100 Pennsylvania Ave. NW., Washington, DC 20056.

William I. Hummel,

Director, Contracts and Procurement Division.

[FR Doc. 91-13073 Filed 6-3-91; 8:45 am]

BILLING CODE 7537-01-M

Meeting; Literature Advisory Panel

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Public Law 92-463), as amended, notice is hereby given that a meeting of the Literature Advisory Panel (Translators Fellowships Section) to the National Council on the Arts will be held on June 20, 1991 from 9 a.m.-6 p.m. and June 21 from 9 a.m.-3 p.m. in room 714 at the Nancy Hanks Center, 1100 Pennsylvania Avenue, NW., Washington, DC 20506.

A portion of this meeting will be open to the public on June 21 from 1 p.m.-3 p.m. The topic will be policy discussion.

The remaining portions of this meeting on June 20 from 9 a.m.-6 p.m. and June 21 from 9 a.m.-1 p.m. are for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including information given in

confidence to the agency by grant applicants. In accordance with the determination of the Chairman of March 5, 1991, as amended, these sessions will be closed to the public pursuant to subsection (c)(4), (6) and (9)(B) of section 552b of title 5, United States Code.

Any interested persons may attend, as observers, meetings, or portions thereof, of advisory panels which are open to the public.

Members of the public attending an open session of a meeting will be permitted to participate in the panel's discussions at the discretion of the chairman of the panel if the chairman is a full-time Federal employee. If the chairman is not a full-time Federal employee, then public participation will be permitted at the chairman's discretion with the approval of the full-time Federal employee in attendance at the meeting. In compliance with this guidance.

If you need special accommodations due to a disability, please contact the Office of Special Constituencies, National Endowment for the Arts, 1100 Pennsylvania Avenue, NW., Washington, DC 20506, 202/682-5532, TTY 202/682-5496, at least seven (7) days prior to the meeting.

Further information with reference to this meeting can be obtained from Ms. Martha Y. Jones, Acting Advisory Committee Management Officer, National Endowment for the Arts, Washington, DC 20506, or call (202) 682-5433.

Dated: May 28, 1991.

Martha Y. Jones,
Acting Director, Council and Panel
Operations, National Endowment for the Arts.
[FR Doc. 91-13115 Filed 8-3-91; 8:45 am]
BILLING CODE 7537-01-M

OFFICE OF PERSONNEL MANAGEMENT

Excepted Service

AGENCY: Office of Personnel Management.

ACTION: Notice.

SUMMARY: This gives notice of positions placed or revoked under Schedules A and B, and placed under Schedule C in the excepted service, as required by civil service rule VI. Exceptions from the Competitive Service.

FOR FURTHER INFORMATION CONTACT: John Daley, (202) 606-0950.

SUPPLEMENTARY INFORMATION: The Office of Personnel Management published its last monthly notice

updating appointing authorities established or revoked under the Excepted Service provisions of 5 CFR 213 on May 3, 1991 (55 FR 12973). Individual authorities established or revoked under Schedules A and B and established under Schedule C between April 1 and April 30, 1991, appear in the listing below. Future notices will be published on the fourth Tuesday of each month, or as soon as possible thereafter. A consolidated listing of all authorities will be published as of June 30, 1991.

Schedule A

No Schedule A authorities were established or revoked during April.

Schedule B

No Schedule B authorities were established or revoked during April.

Schedule C

Department of Agriculture

One Staff Assistant to the Manager, Federal Crop Insurance Corporation. Effective April 19, 1991.

Department of Commerce

One Congressional Liaison Specialist to the Director of Congressional Affairs, International Trade Administration. Effective April 4, 1991.

One Special Assistant to the Director, Office of Public Affairs. Effective April 17, 1991.

One Confidential Assistant to the Deputy Under Secretary, International Trade Administration. Effective April 19, 1991.

One Confidential Assistant to the Deputy Assistant Secretary for Domestic Operations, International Trade Administration. Effective April 19, 1991.

One Confidential Assistant to the Director of Scheduling, Office of the Chief of Staff. Effective April 24, 1991.

One Confidential Assistant to the Director, Office of White House Liaison. Effective April 25, 1991.

Department of Defense

One Special Assistant to the Assistant Secretary (Legislative Affairs). Effective April 15, 1991.

Department of Education

One Confidential Assistant to the Chief of Staff/Counselor to the Secretary. Effective April 24, 1991.

Department of Energy

One Special Project Assistant to the Director, Executive Secretariat. Effective April 23, 1991.

One Staff Assistant to the Special Assistant to the Secretary. Effective April 26, 1991.

One Staff Assistant to the Special Assistant, Director, Office of Community Services. Effective April 26, 1991.

Environmental Protection Agency

One Special Assistant to the Assistant Administrator, Office of Air and Radiation. Effective April 19, 1991.

One Staff Assistant to the Special Assistant to the Administrator. Effective April 25, 1991.

Equal Employment Opportunity Commission

One Media Contact Specialist to the Director, Office of Communications and Legislative Affairs. Effective April 29, 1991.

Export-Import Bank of the United States

One Administrative Assistant to the Director. Effective April 15, 1991.

Farm Credit Administration

One Congressional Affairs Specialist to the Director, Office of Congressional and Public Affairs. Effective April 15, 1991.

One Director, Congressional and Public Affairs to the Chairman. Effective April 19, 1991.

Federal Maritime Commission

One Counsel to a Commissioner. Effective April 22, 1991.

Federal Trade Commission

One Director of Public Affairs to the Chairman. Effective April 26, 1991.

Government Printing Office

One Congressional and Public Affairs Officer to the Public Printer. Effective April 4, 1991.

Department of Health and Human Services

One Executive Assistant to the Commissioner, Social Security Administration. Effective April 10, 1991.

One Special Assistant to the Deputy Commissioner, Programs, Social Security Administration. Effective April 15, 1991.

One Confidential Assistant to the Staff Director, Advisory Council on Social Security. Effective April 15, 1991.

One Staff Assistant (Scheduling) to the Director, Office of Scheduling. Effective April 19, 1991.

Department of Housing and Urban Development

One Special Assistant to the Deputy Assistant Secretary for Resident Initiatives. Effective April 7, 1991.

One Special Assistant to the Deputy Assistant Secretary for Operations,

Office of Housing. Effective April 15, 1991.

One Special Assistant to the Assistant Secretary for Housing-Federal Housing Commissioner. Effective April 24, 1991.

Interstate Commerce Commission

One Confidential Assistant to the Vice Chairman, Commissioner. Effective April 8, 1991.

Department of Justice

One Public Affairs Specialist to the Chief Spokesman, Office of Public Affairs. Effective April 5, 1991.

One Special Assistant/Special Affairs Officer to the Director, United States Marshals Service. Effective April 17, 1991.

One Confidential Assistant to the Director, Office of Policy Development. Effective April 22, 1991.

Department of Labor

One Special Assistant to the Deputy Assistant Secretary, Mine Safety and Health Administration. Effective April 19, 1991.

Office of Management and Budget

One Legislative Assistant to the Associate Director for Legislative Affairs. Effective April 17, 1991.

One Special Assistant to the Associate Director for Legislative Affairs. Effective April 17, 1991.

Pension Benefit Guaranty Corporation

One Congressional Liaison Specialist to the Special Assistant to the Executive Director. Effective April 19, 1991.

Department of State

One Foreign Affairs Officer, (Ceremonials), to the Chief of Protocol. Effective April 7, 1991.

One Staff Assistant to the Special Assistant, Office of White House Liaison, Bureau of Public Affairs. Effective April 15, 1991.

One Director, Office of Public Liaison to the Senior Deputy Assistant Secretary, Bureau of Public Affairs. Effective April 15, 1991.

One Secretary (Typing) to the Deputy Assistant Secretary, Office of Legislative Affairs. Effective April 17, 1991.

One Program Specialist to the Director, Office of Public Liaison, Bureau of Public Affairs. Effective April 19, 1991.

United States Information Agency

One Special Assistant to the Associate Director for Programs. Effective April 1, 1991.

Authority: 5 U.S.C. 3301; E.O. 10555, 3 CFR 1954-1958 Comp. P.218.

U.S. Office of Personnel Management.

Constance Berry Newman,

Director.

[FR Doc. 91-13061 Filed 6-3-91; 8:45 am]

BILLING CODE 6325-01-M

OFFICE OF THE UNITED TRADE STATES REPRESENTATIVE

Determination of International Trade Agreements; Colombia

AGENCY: Office of the United States Trade Representative.

ACTION: Notice of determination regarding the application of certain international agreements.

SUMMARY: This notice modifies the determination published in the *Federal Register* on January 4, 1980 (45 FR 1181), as amended by determinations published at 45 FR 18547, 45 FR 36569, 45 FR 63402, 45 FR 85239, 46 FR 24059, 46 FR 40624, 46 FR 46263, 46 FR 48391, 46 FR 48807, 47 FR 16697, 49 FR 47467, 50 FR 8428, 50 FR 9342, 50 FR 11471, 50 FR 13111, 50 FR 18335, 50 FR 38731 and 55 FR 40984.

EFFECTIVE DATE: May 30, 1991.

FOR FURTHER INFORMATION CONTACT: Timothy M. Reif, (202) 395-6800, Office of the United States Trade Representative, 600 17th Street, NW., Washington DC 20506.

SUPPLEMENTARY INFORMATION: Under section 1-103(b) of Executive Order 12188 of January 2, 1980, the functions of the President under section 2(b) of the Trade Agreements Act of 1979 (the Act) and section 701(b) of the Tariff Act of 1930, as amended, are delegated to the United States Trade Representative (the Trade Representative), who shall exercise such authority with the advice of the Trade Policy Committee.

Now, therefore, Carla A. Hills, United States Trade Representative, in conformance with the provisions of Section 2(b) of the Act, section 701(b) of the Tariff Act of 1930, as amended, and section 1-103(b) of Executive Order 12188, does hereby determine, effective on the date of signature of this Notice that:

With respect to the Agreement on Interpretation and Application of Articles VI, XVI and XXIII of the General Agreement on Tariffs and Trade (the Subsidies Code), Colombia has accepted the obligations of the Agreement and should not otherwise be denied the benefits of the Agreement.

In accordance with section 702(b) of the Tariff Act of 1930, as amended (19 U.S.C. 1671(b)), as of May 30, 1991,

Colombia is a "country under the Agreement."

Carla A. Hills,

United States Trade Representative.

[FR Doc. 91-13199 Filed 6-3-91; 8:45 am]

BILLING CODE 3190-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration; Radio Technical Commission for Aeronautics (RTCA) Special Committee 166

User Requirements for Future Airport and Terminal Area Communication, Navigation and Surveillance Systems; Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463, 5 U.S.C., appendix I), notice is hereby given for the eleventh meeting of Special Committee 166 to be held June 20-21, 1991, in the RTCA Conference Room, One McPherson Square, 1425 K Street, NW., suite 500, Washington, DC, 20005, commencing at 9:30 a.m.

The agenda for this meeting is as follows: (1) Chairman's introductory remarks; (2) Approval of minutes of the tenth meeting held on March 20-21, 1991, RTCA Paper No. 220-91/SC166-65; (3) Report by chairman of Transition/Economics Working Group activity. Reports on action items assigned at last meeting—Dr. Reed, Jim Klein and Vince Bencivenga; (4) Presentation by Mr. Robert Smith, FAA ARD-30, on cost/benefit studies related to helicopter/FR operations; (5) Continue review of Chapter 6, Third Partial Draft, RTCA Paper No. 120-90/SC166-64, dated March 20, 1991 (members please bring working copies); (6) Review draft Chapter 7 (will be mailed prior to meeting); (7) Other business; (8) Date and place of next meeting.

Attendance is open to the interested public but limited to space available. With the approval of the Chairman, members of the public may present oral statements at the meeting. Persons wishing to present statements or obtain information should contact the RTCA Secretariat, One McPherson Square, 1425 K Street, NW., suite 500, Washington, DC 20005; (202) 682-0266. Any member of the public may present a written statement to the committee at any time.

Issued in Washington, DC, on May 23, 1991.

Steven Zaidman,

Designated Officer.

[FR Doc. 91-13105 Filed 6-3-91; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF THE TREASURY**Customs Service****Changes Will Be Made To The Textile Category Guidelines**

AGENCY: U.S. Customs Service,
Department of the Treasury.

ACTION: General Notice.

SUMMARY: This notice is announcing that effective June 1, 1991, changes will be made to the Textile Category Guidelines for men's and boys' shirts, not knit, found in categories, 340, 440, 640 and 840.

EFFECTIVE DATE: June 1, 1991.

FOR FURTHER INFORMATION CONTACT: Cynthia Reese, Office of Regulations and Rulings, Textiles Classification Branch, U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, DC 20229; (202) 566-8181. Dick Crichton, Office of Trade Operations, Textiles and Metal Products Branch, U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, DC 20229; (202) 535-4135.

SUPPLEMENTARY INFORMATION: In an attempt to conform to the Harmonized Tariff Schedule of the United States Annotated (HTSUSA) requirements regarding shirts, the language of the Textile Category Guidelines (CIE 13/88

dated November 23, 1988), was inadvertently changed so sleeveless shirts which were previously classified in tariff provisions correlated with category numbers 340, 440, 640 and 840, can no longer be similarly classified. This was not an intentional change in the coverage of categories 340, 440, 640.

Customs will amend the Textile Category Guidelines to allow for men's and boys' sleeveless shirts within categories 340, 440, 640 and 840. The last sentence will be changed to read, "shirts may have sleeves or be sleeveless." This will restore the scope of the guidelines to its previous coverage and is not in conflict with the HTSUSA at the international level.

Michael H. Lane,

Acting Commissioner of Customs.

[FR Doc. 91-13128 Filed 6-3-91; 8:45 am]

BILLING CODE 4320-02-M

UNITED STATES INFORMATION AGENCY**Book and Library Advisory Committee Meeting**

AGENCY: United States Information Agency.

ACTION: Notice of meeting.

SUMMARY: The United States Information Agency announces an open meeting of the Book & Library Advisory Committee on Tuesday, June 18, 1991, 1 p.m.-4:30 p.m. in room 800, USIA Headquarters, 301 Fourth Street SW., Washington, DC. The Agenda will include reports from Book and Library Subcommittee Chairmen: Louise Wheeler, USIA's Director of Private Sector Committees; and USIA's Office of Eastern European Initiatives. The meeting will feature Hans N. (Tom) Tuch speaking on "The Role of USIS Libraries in Public Diplomacy and Their Future." Subcommittees will meet individually from 10:30 a.m. to 12 noon.

DATES: June 18 1991.

ADDRESSES: 301 4th St. SW., Washington, DC 20547.

FOR FURTHER INFORMATION CONTACT: Louise G. Wheeler or Patricia Gribben at 619-6089.

SUPPLEMENTARY INFORMATION: Copies of minutes can be obtained by calling 619-6089.

Dated: May 28, 1991.

Douglas Wertman,

Committee Management Officer.

[FR Doc. 91-13074 Filed 6-3-91; 8:45 am]

BILLING CODE 8230-01-M

Sunshine Act Meetings

Federal Register

Vol. 56, No. 107

Tuesday, June 4, 1991

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

COMMISSION ON CIVIL RIGHTS

May 31, 1991.

DATE AND TIME: Monday, June 10, 1991, 9:30 a.m.

PLACE: Telephonic meeting of participants in different locales. Some participants will be present at the Commission's Offices at 1121 Vermont Avenue, N.W., Room 512, Washington, D.C. 20425.

STATUS: Open to the Public.

MATTER TO BE CONSIDERED:

Agenda

I. Indian Civil Rights Act Report

CONTACT PERSON FOR MORE

INFORMATION: Barbara Brooks, Press and Communications Division (202) 376-8312.

Carole McCabe Booker,
General Counsel.

[FR Doc. 91-13291 Filed 5-31-91; 4:02 pm]

BILLING CODE 6335-01-M

DEFENSE NUCLEAR FACILITIES SAFETY BOARD:

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given of the following meeting of the Board

TIME AND DATE: 5:30 p.m. June 24, 1991.

PLACE: Ramada Hotel (Denver/Boulder), 8773 Yates Drive, Westminster, CO.

STATUS: Open. While the Government in the Sunshine Act does not require that the scheduled briefing be conducted in a meeting, the Board has determined that an open meeting in this specific case furthers the public interests underlying both the Sunshine Act and the Board's enabling legislation.

MATTERS TO BE CONSIDERED: Briefing will be given by the Department of Energy and its contractors and outside experts on the status of certain health and safety issues at the Rocky Flats Plant, including, but not limited to, removal of plutonium in the ducts, training programs, and safety standards.

FOR MORE INFORMATION CONTACT:

Kenneth M. Pusateri or Carole J. Council, (202) 208-6400.

Dated: May 31, 1991.

Kenneth M. Pusateri,
General Manager.

[FR Doc. 91-13181 Filed 5-31-91; 11:34 am]

BILLING CODE 6820-KD-M

FEDERAL COMMUNICATIONS COMMISSION

May 30, 1991.

FCC To Hold a Closed Commission Meeting

The Federal Communications Commission will hold a Closed Meeting in Room 814 on the subjects listed below on Friday, May 31, 1991, which is scheduled to commence at 9:00 a.m., at 1919 M Street, N.W., Washington, D.C.

Item No., Bureau, and Subject

1—General Counsel—Consideration of Possible Commission Participation In *Zell Miller for Governor v. Pacific and Southern Co.*, Civil Action No. 1: 91-CV-267-RLV (D. GA. 1991) and *Dickinson v. Cosmos Broadcasting Co.*, Docket No. CV-91-67—R (Mont. Cty. AL 1991).

These items are closed to the public because they concern the agency's participation in civil actions. (See 47 C.F.R. 0.603(j)).

The following persons are expected to attend:

Commissioners and their Assistants
Managing Director and members of his staff
The Secretary
General Counsel and members of his staff
Director, Office of Public Affairs and members of her staff
Chief, Mass Media Bureau, and members of his staff

Action by the Commission May 30, 1991, Chairman Sikes; Commissioners Quello, Barrett, and Duggan voting to consider these matters in closed session; and to hold a meeting on less than seven days' notice because, in light of the status of the above-referenced civil actions, the prompt and orderly conduct of agency business so requires. Commissioner Marshall not participating.

This meeting may be continued the following work day to allow the Commission to complete appropriate action.

Additional information concerning this meeting may be obtained from Steve Svab, Office of Public Affairs, telephone number (202) 632-5050.

Federal Communications Commission.

Issued: May 30, 1991.

William F. Caton,
Acting Secretary.

[FR Doc. 91-13253 Filed 5-31-91; 2:06 pm]

BILLING CODE 6712-01-M

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

May 30, 1991.

TIME AND DATE: 2:00 p.m., Thursday, June 6, 1991.

PLACE: Room 600, 1730 K Street, N.W., Washington, D.C.

STATUS: Open.

MATTERS TO BE CONSIDERED: The Commission will consider and act upon the following:

1. *Wyoming Fuel Company*, Docket No. WEST 90-238-R. (Issues include whether the Secretary of Labor was authorized to issue Wyoming Fuel an imminent danger order, pursuant to 30 U.S.C. § 817(a), for conditions that required a withdrawal of miners under 30 U.S.C. § 863(i)(2).

Any person attending this meeting who requires special accessibility features and/or auxiliary aids, such as sign language interpreters, must inform the Commission in advance of those needs. Subject to 29 CFR § 2706.150(a)(3) and § 2706.160(d).

CONTACT PERSON FOR MORE INFO: Jean Ellen (202) 653-5829/(202) 708-9300 for TDD Relay, 1-800-877-8339 for Toll Free.

Jean H. Ellen,
Agenda Clerk.

[FR Doc. 91-13279 Filed 5-31-91; 3:57 pm]

BILLING CODE 6735-01-M

BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

TIME AND DATE: 11:00 a.m., Monday, June 10, 1991.

PLACE: Marriner S. Eccles Federal Reserve Board Building, C Street entrance between 20th and 21st Streets, N.W., Washington, D.C. 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.

2. Any items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE

INFORMATION: Mr. Joseph R. Coyne,

Assistant to the Board; (202) 452-3204. You may call (202) 452-3207, beginning at approximately 5 p.m. two business days before this meeting, for a recorded announcement of bank and bank holding company applications scheduled for the meeting.

Dated: May 31, 1991.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 91-13268 Filed 5-31-91; 3:58 pm]

BILLING CODE 6210-01-M

NATIONAL TRANSPORTATION SAFETY BOARD

TIME AND DATE: 9:30 a.m., Tuesday, June 11, 1991.

PLACE: Board Room, Eighth Floor, 800 Independence Avenue, SW., Washington, DC 20594.

STATUS: Open.

MATTERS TO BE CONSIDERED:

5319A—Pipeline Accident Report: Propane Pipeline Rupture and Fire, Texas Eastern Products Pipeline Company, North Blenheim, New York, March 13, 1990.

NEWS MEDIA CONTACT: Brent Bahler Telephone (202) 382-6600.

FOR MORE INFORMATION CONTACT: Bea Hardesty, (202) 382-6525.

Dated: May 31, 1991.

Bea Hardesty,

Federal Register Liaison Officer.

[FR Doc. 91-13227 Filed 5-31-91; 3:30 pm]

BILLING CODE 7533-01-M

NUCLEAR REGULATORY COMMISSION

DATES: Weeks of June 3, 10, 17, and 24, 1991.

PLACE: Commissioners' Conference Room, 11555 Rockville Pike, Rockville, Maryland.

STATUS: Open and Closed.

MATTERS TO BE CONSIDERED:

Week of June 3

Friday, June 7

1:30 p.m.

Periodic Meeting with the Advisory Committee on Reactor Safeguards (ACRS) (Public Meeting)

3:00 p.m.

Affirmation/Discussion and Vote (Public Meeting)

a. Final Rulemaking, "Procedures for Direct Commission Review of Decisions of Presiding Officers," and Establishment of Office of Opinion Writing

Week of June 10—Tentative

Monday, June 10

2:00 p.m.

Briefing on Proposed Rule on Training and Qualification of Nuclear Power Plant Personnel (Public Meeting)

Tuesday, June 11

10:00 a.m.

Briefing by Agreement States on Compatibility Issues (Public Meeting)

Wednesday, June 12

10:00 a.m.

Briefing on Progress of Design Certification Review and Implementation (Public Meeting)

11:30 a.m.

Affirmation/Discussion and Vote (Public Meeting) (if needed)

Week of June 17—Tentative

Wednesday, June 19

1:30 p.m.

Briefing on Shutdown Risk Status (Public Meeting)

Thursday, June 20

9:30 a.m.

Periodic Briefing on Operating Reactors and Fuel Facilities (Public Meeting)

11:30 a.m.

Affirmation/Discussion and Vote (Public Meeting) (if needed)

Week of June 24—Tentative

Friday, June 28

8:30 a.m.

Affirmation/Discussion and Vote (Public Meeting) (if needed)

Note: Affirmation sessions are initially scheduled and announced to the public on a time-reserved basis. Supplementary notice is provided in accordance with the Sunshine Act as specific items are identified and added to the meeting agenda. If there is no specific subject listed for affirmation, this means that no item has as yet been identified as requiring any Commission vote on this date.

To Verify the Status of Meetings Call (Recording)—(301) 492-0292.

CONTACT PERSON FOR MORE

INFORMATION: William Hill (301) 492-1661.

Dated: May 30, 1991.

William M. Hill, Jr.,

Office of the Secretary.

[FR Doc. 91-13263 Filed 5-31-91; 2:59 p.m.]

BILLING CODE 7590-01-M

POSTAL SERVICE BOARD OF GOVERNORS Amendment to Meeting

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 56 FR 24117, May 28, 1991.

PREVIOUSLY ANNOUNCED DATE OF MEETING: June 4, 1991.

CHANGE: Delete the following item from the open meeting agenda:

4. Report on the Mailgram Program.

Change the following item on the closed meeting agenda to read:

1. Consideration of a Filing with the Postal Rate Commission for Barcode Discounts on Flats.

CONTACT PERSON FOR MORE

INFORMATION: David F. Harris, (202) 268-4800.

David F. Harris,

Secretary.

Neva R. Watson,

Alternate Certifying Officer.

[FR Doc. 91-13268 Filed 5-31-91; 3:00 pm]

BILLING CODE 7710-12-M

Corrections

Federal Register

Vol. 56, No. 107

Tuesday, June 4, 1991

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Part 52

[FAC 90-4]

RIN 9000-AC43, 9000-AE12, 9000-AD85, 9000-AE00, 9000-AD32, 9000-AE01, 9000-AD66, 9000-AD21, 9000-AD57, 9000-AD08, 9000-AE05, 9000-AD73, 9000-AD02, 9000-AD78, 9000-AD81, 9000-AD77, and 9000-AD33

Federal Acquisition Regulation (FAR); Miscellaneous Amendments

Correction

In rule document 91-8647 beginning on page 15142, in the issue of Monday, April 15, 1991, make the following corrections:

1. On page 15142, in the first column, under **DATES**, in the third line, "and 25-225-11 (a)" should read "and 52.225-11 (a)".
2. On page 15150, in the third column, the heading that reads "52.224-1 [Amended]" should read "52.244-1 [Amended]".

BILLING CODE 1505-01-D

DEPARTMENT OF DEFENSE

48 CFR Parts 232 and 252

Department of Defense Federal Acquisition Regulation Supplement; Contract Financing

Correction

In proposed rule document 91-9818 beginning on page 18800 in the issue of Wednesday, April 24, 1991, make the following correction:

On page 18801, in the third column, Section 252.232-7009 was omitted and should read as follows:

252.232-7009 DoD Progress Payment Rates for Small Businesses.

As prescribed in 232.502-4 (S-73) and (S-74) insert the following clause:

DOD PROGRESS PAYMENT RATES FOR SMALL BUSINESSES (XXX 1991)

The progress payment rate and liquidation rate specified in Federal Acquisition Regulation clause 52.232-16, Progress Payments, shall be 90 percent for this contract, excepting paragraph (k), *Limitations on Unfinalized Contract Actions*. (End of Clause)

BILLING CODE 1505-01-D

DEPARTMENT OF HEALTH AND HUMAN SERVICES DEPARTMENT

Food and Drug Administration

21 CFR Part 177

[Docket No. 90F-0204]

Indirect Food Additives: Polymers

Correction

In rule document 91-11047 beginning on page 21446 in the issue of Thursday, May 9, 1991, make the following correction:

1. On page 21447, in the first column, under **SUPPLEMENTARY INFORMATION**, in the tenth line, "poly(vinylidene fluoride)" should read "poly(vinylidene fluoride)".
2. On page 21448, in the first column, in the fourth line, "100-1" should read "100-1".
3. On the same page, in the same paragraph, in the second line from the bottom, "S St." should read "L St".

BILLING CODE 1505-01-D

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Public Health Service

45 CFR Part 57

RIN 0905-AD07

Health Professions Student Loan Program

Correction

In rule document 91-9751 beginning on page 19290 in the issue of Friday, April 26, 1991, make the following correction:

§ 57.202 [Corrected]

On page 19293, in the first column, amendatory instruction 2 should read as follows:

"2. In 57.202, the definition of "grace period" is amended by removing the term "podiatry" and adding the term "podiatric medicine", and the definitions of "health professions school", "National of the United States", and "State" are revised to read as follows:"

BILLING CODE 1505-01-D

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Social Security Administration

20 CFR Part 416

[Regulation No. 16]

RIN 0960-AC51

Supplemental Security Income for the Aged, Blind, and Disabled; Interim Assistance Provisions

Correction

In rule document 91-9951 beginning on page 19260 in the issue of Friday, April 26, 1991, make the following corrections:

§ 416.1902 [Corrected]

1. On page 19262, in the first column, in § 416.1902, in the first paragraph, in the fourth line "use" should read "us".
2. On the same page, in the same column, in the second paragraph, in the fourth line, after "meet" insert "your".

BILLING CODE 1505-01-D

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[ID-942-01-4730-12]

Idaho; Filing of Plats of Survey

Correction

In notice document 91-7271 appearing on page 12950 in the issue of Thursday, March 28, 1991, in the first column, in the second paragraph, in the third line, "substantial" should read "subdivisional".

BILLING CODE 1505-01-D

DEPARTMENT OF THE INTERIOR**Fish and Wildlife Service****50 CFR Part 23**

RIN 1018-AB30

**Export of American Ginseng
Harvested in 1991-93 Seasons***Correction*

In proposed rule document 91-8922 beginning on page 15318 in the issue of Tuesday, April 16, 1991, make the following correction:

On page 15321, in the third column, in the first paragraph, beginning in the seventh line, remove the sentence,

"Once the convention export documentation and contents of the shipment".

BILLING CODE 1505-01-D

**OFFICE OF MANAGEMENT AND
BUDGET****Office of Federal Procurement Policy****Government-wide Small Business and
Small Disadvantaged Business Goals
for Procurement Contracts; Policy
Letter***Correction*

In notice document 91-6564 beginning on page 11796 in the issue of

Wednesday, March 20, 1991, make the following corrections:

1. On page 11798, in the second column, under paragraph 5(d), in the second line, "nd" should read "and".
2. On the same page, in the same column, under paragraph 6, in the ninth line, "and" should read "an".

BILLING CODE 1505-01-D

Federal Register

Tuesday,
June 4, 1991

Part II

Department of Transportation

Federal Aviation Administration

14 CFR Parts 121, 125, 127, 129, and 135
Special Federal Aviation Regulation No.
38; Certification and Operating
Requirements; Final Rule; Request for
Comments

DEPARTMENT OF TRANSPORTATION**Federal Aviation Administration**

14 CFR Parts 121, 125, 127, 129, and 135

[Docket No. 18510; SFAR No. 38-7]

Special Federal Aviation Regulation No. 38; Certification and Operating Requirements

AGENCY: Federal Aviation Administration [FAA], DOT.

ACTION: Final Rule; request for comments.

SUMMARY: This amendment establishes a new termination date for Special Federal Aviation Regulation [SFAR] No. 38-2 (50 FR 23941; June 7, 1985), which contains the certification and operating requirements for persons conducting commercial passenger or cargo operations. The FAA stated in previous extensions of SFAR 38-2 that it was necessary to establish a new termination date for SFAR 38-2 to allow time for the FAA to complete the rulemaking process that will consolidate the rules regarding certification and operating requirements and incorporate SFAR 38-2 into the Federal Aviation Regulations (FAR). The current termination date for SFAR 38-2 is June 1, 1991. Because the FAA has not completed that rulemaking process, a 1-year extension of the termination date is necessary. SFAR 38-2 is extended to ensure that the FAA has adequate time to complete the consolidation of the rules regarding certification and operating requirements. However, if a final rule, which consolidates those rules, is issued before the new termination date, the FAA intends to publish a notice rescinding SFAR 38-2 concurrently with the publication of the final rule in the Federal Register.

DATES: Effective date May 28, 1991. Comments must be received on or before August 5, 1991.

ADDRESSES: Send comments on the rule in triplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn: Rules Docket (AGC-10), Docket No. 18518, 800 Independence Avenue, SW., Washington, DC 10591, or deliver comments in triplicate to: Federal Aviation Administration, Rules Docket, room 916, 800 Independence Avenue, SW., Washington, DC. Comments may be examined in the Rules Dockets weekdays, except Federal holidays, between 8:30 a.m. and 5 p.m.

FOR FURTHER INFORMATION CONTACT: Ms. Donell Pollard, Project Development

Branch, AFS-240, Air Transportation Division, Flight Standards Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; Telephone (202) 267-3750.

SUPPLEMENTAL INFORMATION:

Background

On December 12, 1978, the FAA issued SFAR 38 (43 FR 58366; December 14, 1978) as a consequence of the Airline Deregulation Act of 1978 (ADA or Act) (Pub. L. 95-504, 92 Stat. 1705). That Act expresses the Congressional intent that the Federal Government diminish its involvement in regulating the economic aspects of the airline industry. To accomplish this, Congress directed that the CAB be abolished on December 31, 1984, and that certain of its functions cease before that date. Anticipating its sunset, the CAB itself curtailed or suspended much of its regulatory activity during the period 1979-1984. On October 4, 1984, additional legislation was enacted further defining the process of CAB sunset. On January 1, 1985, the remaining CAB functions were transferred to the Department of Transportation (DOT).

Because some aspects of FAA safety regulations relied upon CAB definitions and authority, the FAA found it necessary in 1978 to adopt an interim measure to provide for an orderly transition to the change in economic regulatory activities. This action was consistent with the Congressional directive contained in section 107(a) of the Act that the deregulation of airline economics result in no diminution of the high standard of safety in air transportation that existed when the ADA was enacted. SFAR 38 set forth FAA certification and operating requirements applicable to all "air commerce" and "air transportation" operations for "compensation or hire." (SFAR 38 did not address part 133 External Load Operations, part 137 Agriculture Aircraft Operations, or part 91 training and other special purpose operations.)

On December 27, 1984, the FAA issued SFAR 38-1 (50 FR 450; January 4, 1985), which merely extended the termination date of the regulation and allowed the FAA time to propose and receive comments on revising SFAR 38.

On May 28, 1985, the FAA issued SFAR 38-2 (50 FR 23941; June 7, 1985), which updated SFAR 38 in light of changes since 1978 and clarified provisions stating which FAA regulations apply to each air carrier and each type of operation. This action was necessary because of the changes in the air transportation industry brought

about by economic deregulation. Before deregulation, economic certificates were rigidly compartmentalized, and each air carrier typically was authorized to conduct only one type of operation (domestic, flag, or charter (i.e., supplemental)). The safety certificate issued to the air carrier by the FAA paralleled the authorization granted in the air carrier's economic certificate. Economic deregulation broke down the barriers between the various types of operations. The economic authority granted an air carrier by the DOT is no longer indicative of the safety regulations applicable to the type of operation authorized by the FAA. Thus, it was necessary for the FAA to establish guidelines to determine what safety standards were applicable to an air carrier's particular operation.

On April 30, 1986, the FAA issued SFAR 38-3, which extended the termination date of SFAR 38-2 to allow the FAA time to incorporate its contents into Notice No. 88-16. That notice proposes to consolidate the certification and operating requirements rules in parts 121 and 135, and to incorporate various provisions of SFAR 38-2 into new part 119 of the FAR.

On July 15, 1987, the FAA issued SFAR 38-4, which reinstated SFAR 38-2, because it was inadvertently allowed to expire, and extended its termination date to June 1, 1989. That extension allowed the FAA time to incorporate the contents of SFAR 38-2 into Notice No. 88-16.

On May 26, 1989, the FAA issued SFAR 38-5, which extended the expiration date of SFAR 38-2 to June 1, 1990, in order for the FAA to consider comments on Notice No. 88-16 and to issue a final rule which would consolidate the certification and operating requirements rules of SFAR 38-2, Part 121, and Part 135.

On April 11, 1990, the FAA reopened the comment period for Notice No. 88-16 (55 FR 14404; April 17, 1990) for comments on the definition of "scheduled operation" and the notification requirement for changes to operations specifications for a period of 30 days. The reopened comment period closed May 17, 1990.

To allow for additional time to consider comments received during the reopened comment period, the FAA extended the expiration date for SFAR 38-2 until June 1, 1991 (55 FR 23043).

Currently, the FAA is completing work on the final rule that would make SFAR 38-2 a permanent Federal Aviation Regulation; therefore it is necessary to extend the expiration date for SFAR 38-2 until June 1, 1992.

Good Cause Justification for Immediate Adoption

The reasons which justify the adoption, and the subsequent revision, of SFAR 38 still exist. Therefore, it is in the public interest to establish a new termination date for SFAR 38-2 of June 1, 1992. If the FAA publishes a final rule incorporating SFAR 38-2 into the FAR before the termination date, a notice rescinding SFAR 38-2 will be published concurrently. This action is necessary to permit continued operations under SFAR 38, as amended, and to avoid confusion in the administration of FAA regulations regarding operating certificates and operating requirements.

For this reason, and because this amendment continues in effect the provisions of a currently effective SFAR and imposes no additional burden on any person, I find that notice and public procedures are unnecessary, impracticable, and contrary to the public interest, and that the amendment should be made effective in less than 30 days after publication. However, interested persons are invited to submit such comments as they desire regarding this amendment. Communications should identify the docket number and be submitted in duplicate to the address above. All communications received on or before the close of the comment period will be considered by the Administrator, and this amendment may be changed in light of the comments received. All comments will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested parties.

Regulatory Flexibility Determination

The Regulatory Flexibility Act of 1980 (RFA) was enacted to ensure that small entities are not unnecessarily and disproportionately burdened by Government regulations. The RFA requires agencies to review rules which may have "a significant economic impact on a substantial number of small entities."

This rule will not impose any additional incremental costs over those that would have been incurred when SFAR 38-2 was first issued. Therefore, the FAA has determined that this rule will not have a significant cost impact

on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

International Trade Impact Analysis

The FAA finds this amendment will have no impact on international trade.

Federalism Implications

The amendment herein would not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this amendment would not have sufficient federalism applications to warrant the preparation of a Federalism Assessment.

Conclusion

The FAA has determined that this document involves an amendment that imposes no additional burden on any person. Accordingly, it has been determined that: The action does not involve a major rule under Executive Order 12291; it is not significant under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and its anticipated impact is so minimal that a full regulatory evaluation is not required.

*List of Subjects**14 CFR Part 121*

Air carrier, Aircraft, Airmen, Air transportation, Aviation safety.

14 CFR Part 125

Aircraft, Airmen, Airports, Airspace, Air traffic control, Air transportation, Chemicals, Children, Drugs, Flammable materials, Handicapped, Hazardous materials, Infants, Smoking.

14 CFR Part 127

Air carriers, Aircraft, Airmen, Airworthiness.

14 CFR Part 129

Air carriers, Aircraft, Airmen, Air transportation, Aviation safety, Safety.

14 CFR Part 135

Air carriers, Aircraft, Airmen, Air taxis, Air transportation, Airworthiness, Aviation safety, Safety.

Adoption of the Amendment

In consideration of the foregoing SFAR 38-2 (14 CFR parts 121, 125, 127, 129, and 135) of the Federal Aviation Regulations is amended as follows:

PART 121—[AMENDED]

1. The authority citation for part 121 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421, 1423, 1424, and 1502; 49 U.S.C. 106(g) (revised Pub. L. 97-449, January 12, 1983).

PART 125—[AMENDED]

2. The authority citation for part 125 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421, though 1430, and 1502; 49 U.S.C. 106(g) (revised Pub. L. 97-449, January 12, 1983).

PART 127—[AMENDED]

3. The authority citation for part 127 is revised to read as follows:

Authority: 49 U.S.C. 1354(a), 1421, 1422, 1423, 1424, 1425, 1430; 49 U.S.C. 106(g) (revised Pub. L. 97-449, January 12, 1983).

PART 129—[AMENDED]

4. The authority citation for part 129 is revised to read as follows:

Authority: 49 U.S.C. 1346, 1354(a) 1356, 1357, 1421, 1502, 1511, and 1522; 49 U.S.C. 106(g) (revised Pub. L. 97-449, January 12, 1983).

PART 135—[AMENDED]

5. The authority citation for part 135 is revised to read as follows:

Authority: 49 U.S.C. 1354(a), 1355(a), 1421 through 1431, and 1502; 49 U.S.C. 106(g) (revised Pub. L. 97-449, January 12, 1983).

Special Federal Aviation Regulation No. 38-2 is amended by removing the words "June 1, 1991" in the last paragraph, and by adding in their place the words "June 1, 1992."

Issued in Washington, DC, on May 28, 1991.

James B. Busey,
Administrator.

[FR Doc. 91-13068 Filed 5-30-91; 8:45 am]

BILLING CODE 4910-13-M

in the treatment of the disease. The patient should be kept in bed, and the diet should be restricted to a light, easily digestible food. The use of stimulants and sedatives should be avoided.

PART I—(AMENDED)

The following are the amendments to the constitution of the American Medical Association, adopted at the annual meeting held at Atlantic City, N. J., May 1, 1918.

ARTICLE I. The name of the Association shall be "The American Medical Association."

ARTICLE II. The purpose of the Association shall be to advance the science and art of medicine, to promote the health of the people, and to protect the public interest.

PART II—(AMENDED)

ARTICLE III. The Association shall be organized into a national body, and into local bodies in each of the several States, Territories, and Possessions of the United States.

PART III—(AMENDED)

ARTICLE IV. The Association shall have the right to elect and discontinue its officers and members, and to make and alter its by-laws.

ARTICLE V. The Association shall have the right to make and alter its constitution, and to amend the same.

ARTICLE VI. The Association shall have the right to make and alter its rules of procedure, and to amend the same.

ARTICLE VII. The Association shall have the right to make and alter its financial regulations, and to amend the same.

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ARTICLE VII. The Association shall have the right to make and alter its financial regulations, and to amend the same.

Registered Federal Report

Tuesday
June 4, 1991

Part III

Department of Education

Office of Special Education and
Rehabilitative Services

Discretionary Programs for Minority
Entities, Underrepresented Populations,
etc.; Notice

DEPARTMENT OF EDUCATION

Discretionary Programs for Minority Entities, Underrepresented Populations, etc.

Office of Special Education and Rehabilitative Services

AGENCY: Department of Education.

ACTION: Notice of proposed priority for fiscal year 1991.

SUMMARY: The Secretary proposes a priority for fiscal year (FY) 1991 under the Individuals with Disabilities Education Act (IDEA). The Secretary takes this action to implement the Department plan for providing outreach services to minority entities and underrepresented populations to assist them in participating more fully in discretionary programs funded under the Act.

DATES: Comments must be received on or before July 5, 1991.

ADDRESSES: All comments concerning this priority should be addressed to Max Mueller, Department of Education, 400 Maryland Avenue SW. (Switzer Building, room 3512-M/S 2851), Washington, DC 20202-2651.

FOR FURTHER INFORMATION CONTACT: Max Mueller. Telephone: (202) 732-1554; (TDD) (202) 732-1999.

SUPPLEMENTARY INFORMATION: The legislation authorizing special education programs has recently been revised (The Education of the Handicapped Act Amendments of 1990, Public Law 101-476). This priority is being proposed as a principal component to carry out the Department's outreach services plan that has been developed pursuant to a recommendation made by Congress in section 610(j)(2) of the IDEA. Outreach activities are to be designed to increase the participation of minority entities and underrepresented populations in discretionary programs (parts C through G) of the IDEA.

The Secretary will announce the final priority in a notice in the Federal Register. The final priority will be determined by responses to this notice, available funds, and other considerations of the Department. Funding of particular projects depends on the availability of funds, the nature of the final priority, and the quality of applications received. The publication of this proposed priority does not preclude the Secretary from publishing additional priorities, nor does it limit the Secretary to funding only this priority, subject to meeting applicable rulemaking requirements.

Note: This notice of proposed priority does not solicit applications. A notice inviting applications under this competition will be published in the Federal Register concurrent with or following publication of the notice of final priority.

Priority

Under 34 CFR 75.105(c)(3) and section 610(j) of the IDEA the Secretary proposes to give an absolute preference to applications that meet the following priority. The Secretary proposes to fund under this competition only applications that meet the absolute priority in this notice.

The Secretary proposes to make one or more 48-month awards for outreach centers to provide technical assistance to the agencies, institutions, organizations, and populations identified by Congress in the minority outreach program under section 610(j) in order to increase the participation of those entities in competitions for grants, cooperative agreements, and contracts under any of parts C through G of the IDEA.

The IDEA urges the Department to mobilize the Nation's resources to prepare minorities for careers in special education and related services. The legislation emphasizes the recruitment of minorities into teaching and related service disciplines, and financial assistance to minority institutions. The specific focus of this proposed priority is on providing outreach services to minority entities to increase their participation in competitions for awards under OSEP discretionary programs.

The immediate goal of this program is to increase access to and participation by minority institutions in discretionary programs authorized under parts C through G of the IDEA. A secondary goal is to strengthen special education and related programs of minority entities. The desired ultimate outcomes of the priority are improved programs for minority children with disabilities and increased numbers of minority personnel in the workforce serving children with disabilities.

Under the statute, the entities targeted for outreach services are:

- Historically Black Colleges and Universities,
- Other institutions of higher education whose minority student enrollment is at least 25 percent,
- Eligible institutions as defined under section 312 of the Higher Education Act of 1965,
- Nonprofit and for-profit agencies at least 51 per cent controlled by one or more minority individuals (however, it should be noted that for-profit agencies

are not eligible for most IDEA programs), and

• Underrepresented populations. Underrepresented populations are further defined as—

- Populations such as minorities, the poor, the limited English proficient, and individuals with disabilities.

Background

The Congress has provided in the legislation a substantial rationale that should guide the efforts of the Center. As a part of the IDEA (section 610(j)), the Congress has provided extensive "findings" regarding minority issues relating to the education of people with disabilities. Concerns noted relate to minority students with disabilities, minority personnel to serve such children, and minority institutions. Though the findings concentrate largely on Historically Black Colleges and Universities, the law provides for equal attention to other institutions and agencies defined as minority entities.

With respect to the discretionary programs authorized by parts C through G, the Congress found, in summary:

The Federal Government must be responsive to the growing needs of an increasingly more diverse society. A more equitable allocation of resources is essential for the Federal Government to meet its responsibility to provide an equal educational opportunity for all individuals.

America's racial profile is rapidly changing. The minority population is increasing in society generally and in the schools in particular. In addition, more minority children continue to be served in special education than would be expected from the percentage of minority students in the general population. Greater efforts are needed to prevent the problems associated with mislabeling and higher dropout rates among minority children with disabilities. This combination of factors means that meeting the special needs of minority children with disabilities is a major issue to be addressed in delivery of special education and related services.

At the same time, minorities are seriously underrepresented in the teaching force. As the number of African-Americans and Hispanic students in special education increases, the number of minority teachers and related service personnel produced in our colleges and universities continues to decrease. Recruitment efforts within special education at the level of preservice training, continuing education, and teacher recruitment in the school must focus on bringing larger

numbers of minorities into the profession in order to provide appropriate practitioner knowledge, role models, and sufficient manpower to address the clearly changing demography of special education.

The Congress concluded that the opportunity for full participation in awards for grants, cooperative agreements, and contracts by minority entities is essential if we are to obtain greater success in the recruitment and training of minority personnel and in the education of minority children with disabilities.

Eligible Applicants: The following are eligible for assistance under this priority:

- (1) Public agencies; and
- (2) Private nonprofit agencies, organizations, and institutions.

Priority: Under this priority, the Secretary will fund one or more centers that provide effective and cost-efficient technical assistance to the agencies, institutions, organizations, and populations listed in section 610(j)(2) to promote their participation in programs authorized under parts C through G of the IDEA.

Each center must establish an advisory group of at least 10 persons to provide advice and recommendations to the Center on all aspects of this project. The advisory group must represent relevant professional organizations, parents of minority children with disabilities, and different disciplinary areas (e.g., special education, health, social work). The center shall select each member of the advisory group on the basis of experience and ability to provide sound recommendations and advice to the Center relative to both minority and disability issues.

Each center shall establish and maintain a clearinghouse of critically important information and materials that can be used effectively to assess and meet the technical assistance needs of minority entities and underrepresented groups. As a part of this task, the Center shall, at least annually, conduct literature searches, identify and visit programs demonstrating exemplary practices, and conduct other activities to secure the most current and effective information available. The center shall also develop materials and other information packages that may be necessary for conducting needs assessments, for delivering technical assistance, for

evaluating technical assistance, and for providing training to the center's core staff and national experts.

Each center annually shall conduct technical assistance needs assessments and negotiate technical assistance agreements with target agencies, institutions, organizations, programs, and projects.

In establishing final plans, the Center may propose cross-institutional activities if similar objectives are established in several agencies, and if combining activities could create cost savings. In developing these plans, the Center shall analyze the needs of each entity and determine the most effective and cost efficient means of addressing them. As a final step, the Center shall develop a specific technical assistance agreement, with each entity identified, that—

- (a) Reconciles technical assistance needs with the Center's designated fiscal and human resources for that entity;
- (b) Describes the technical assistance objectives and mechanisms and strategies that will be used;
- (c) Identifies the persons involved in the technical assistance activity;
- (d) Specifies the beginning and end dates of the activity;
- (e) Describes how the technical assistance activity will contribute to promoting the immediate and long-term goals of the project; and
- (f) Describes a plan for coordinating with other technical assistance providers (e.g., the Regional Resource Centers) that may be involved in related activities.

For each competition which the Secretary runs under parts C through G, the Center shall—

- Prepare special materials explaining the competition to the entities (that are the focus of this program);
- Disseminate these materials to these entities on a timely basis;
- Where appropriate, conduct one or more special "potential bidders" conferences for these entities, at which representatives of the Secretary may appear, to explain in more detail how the entities might apply;
- Analyze the results of each competition in terms of the degree to which these entities applied and the degree to which they were successful, and make this analysis available to the Secretary and the entities; and

- Provide advice to the Secretary at least annually on ways in which competitions under parts C through G might be modified to further advance the purposes of this program.

For the purpose of carrying out this function, the Secretary intends to make available to the center(s) the maximum information on the selection process for each competition which the Secretary is permitted to make public under applicable law.

Intergovernmental Review

This program is subject to the requirements of Executive Order 12372 and the regulations in 34 CFR part 79. The objective of the Executive Order is to foster an intergovernmental partnership and a strengthened federalism by relying on processes developed by State and local governments for coordination and review of proposed Federal financial assistance.

In accordance with the order this document is intended to provide early notification of the Department's specific plans and actions for these programs.

Invitation to Comment: Interested persons are invited to submit comments and recommendations regarding this proposed priority.

The Secretary is especially interested in comments on the relative advantages of implementing the mandate for outreach to minority entities through a single award or a small number of related projects. The issues involve whether the differences among various OSEP programs, the needs of various types of minority entities, or the needs of various minority populations are sufficient to require separate attention through separate awards.

All comments submitted in response to this proposed priority will be available for public inspection during and after the comment period, in room 3072, Switzer Building, 330 C Street SW., Washington, DC, between the hours of 8:30 a.m. and 4 p.m., Monday through Friday of each week except Federal holidays.

Program Authority: 20 U.S.C. 1410.
(Catalog of Federal Domestic Assistance Number 84.029: Training Personnel for the Education of Individuals with Disabilities)

Dated: April 26, 1991.

Lamar Alexander,
Secretary of Education.

[FR Doc. 91-13088 Filed 6-3-91; 8:45 am]

BILLING CODE 4000-01-M

Registered Federal Reporter

**Tuesday
June 4, 1991**

Part IV

Department of Health and Human Services

Health Care Financing Administration

42 CFR Part 412

**Medicare Program; Medicare Geographic
Classification Review Board—Procedures
and Criteria; Final Rule with Comment
Period**

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

42 CFR Part 412

[BPD-684-FC]

RIN 0938-AF19

Medicare Program; Medicare Geographic Classification Review Board—Procedures and Criteria

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Final rule with comment period.

SUMMARY: This final rule with comment period responds to public comments on the September 6, 1990 interim final rule with comment period that established the Medicare Geographic Classification Review Board (MGCRCB) and sets forth the criteria for the MGCRCB to use in issuing its decisions concerning the geographic reclassification of hospitals for purposes of payment under the prospective payment system. In addition, this final rule with comment period implements provisions of the Omnibus Budget Reconciliation Act of 1990 concerning the MGCRCB.

DATES:

Effective date: This final rule with comment period is effective on June 4, 1991. We refer the reader to section VII.A. of this preamble for a discussion of the effective dates of specific provisions.

Comment date: Comments on changes to the September 6, 1990 interim final rule resulting from provisions of the Omnibus Budget Reconciliation Act of 1990 will be considered if we receive them at the appropriate address, as provided below, no later than 5 p.m. on August 5, 1991. These changes concern discretionary review by the Administrator of MGCRCB decisions, calculation of the wage index, and urban to urban group reclassifications. We will not consider comments concerning provisions that remain unchanged from the September 6, 1990 interim final rule with comment period or on provisions that were changed based on public comments.

ADDRESSES: Mail comments to the following address: Health Care Financing Administration, Department of Health and Human Services, Attention: BPD-684-FC, P.O. Box 26676, Baltimore, Maryland 21207.

If you prefer, you may deliver your comments to one of the following addresses:

Room 309-G, Hubert Humphrey Building, 200 Independence Ave., SW., Washington, DC.

Room 132, East High Rise Building, 6325 Security Boulevard, Baltimore, Maryland.

Due to staffing and resource limitations, we cannot accept facsimile (FAX) copies of comments.

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FOR FURTHER INFORMATION CONTACT: Paul Olenick—MGCRCB and Administrative Review Procedures (301) 966-4472.

Barbara Wynn—Reclassification Guidelines (301) 966-4529.

SUPPLEMENTARY INFORMATION:

I. Background

Section 6003(h)(1) of the Omnibus Budget Reconciliation Act of 1989, enacted on December 19, 1989, added section 1886(d)(10) to the Social Security Act (the Act) to provide for creation of the Medicare Geographic Classification Review Board (MGCRCB). On September 6, 1990, we published an interim final rule with comment period (55 FR 36754) that provided for the establishment of the MGCRCB and set forth the criteria for the MGCRCB to use in considering applications by hospitals for geographic reclassification for purposes of payment under the prospective payment system. As enacted, section 1886(d)(10) of the

Act provided that reclassifications resulting from applications filed by October 1, 1990 would take effect October 1, 1991.

As required by section 1886(d)(10)(A) of the Act, the interim final rule provided for the establishment of the MGCRCB and set forth criteria to be used by the MGCRCB in making decisions on hospital requests for reclassification. The interim final rule also set forth requirements regarding the MGCRCB's composition and operational procedures.

Subsequently, the Omnibus Budget Reconciliation Act of 1990 (Pub. L. 101-508) was enacted on November 5, 1990. Section 4002(h) of Public Law 101-508 contained several provisions relating to the geographic classification of hospitals. This final rule with comment period makes changes in the September 6, 1990 interim final rule with comment period based on both the provisions of Public Law 101-508 and the public comments received on the interim final rule.

II. Geographic Classification of Hospitals

Under the prospective payment system, a hospital's payment rate is dependent, to some degree, on whether the county in which a hospital is located is classified as a large urban area, an urban area, or a rural area. These terms are defined in section 1886(d)(2)(D) of the Act. The term "urban area" means an area within a Metropolitan Statistical Area (MSA). An urban area in New England is defined as a New England County Metropolitan Area (NECMA). The term "large urban area" means an urban area with a population of more than one million (or more than 970,000 in New England) as determined by the Secretary using the most recent available population data published by the Bureau of the Census. We use the term "other urban area" for an urban area that is not a large urban area. The term "rural area" means any area outside an urban area. Section 1886(d)(2)(D) of the Act requires that average standardized amounts per discharge be determined for hospitals located in large urban areas, other urban areas, and rural areas. The MSA and NECMA classification are also used to define labor market areas for purposes of establishing a hospital's wage index value under section 1886(d) of the Act.

Effective with discharges on or after October 1, 1988, section 4005(a) of the Omnibus Budget Reconciliation Act of 1987 (Pub. L. 100-203), as amended by section 411(b)(4) of the Medicare Catastrophic Coverage Act of 1988 (Pub.

L. 100-360), revised 1886(d)(8)(B) of the Act to provide that, if certain conditions are met, the Secretary treats a hospital located in a rural county adjacent to one or more urban areas as being located in the urban area to which the greatest number of workers in the county commute, if the rural county would otherwise be considered part of an urban area, under the standards for designating MSAs (and NECMAs), published in the Federal Register on January 3, 1980 (45 FR 956). (We use the terms "classified" and "designated" interchangeably in referring to the area in which a hospital is considered to be located.) The commuting rates used in determining outlying counties are based on the aggregate number of resident workers who commute to (and, if applicable under the standards, from) the central county or counties of all contiguous MSAs (or NECMAs). Thus, hospitals in rural counties adjacent to one or more MSAs or NECMAs are deemed to be urban if the counties meet the following criteria:

- The rural county would otherwise be considered a part of an MSA (as an outlying county) but for the fact that the rural county does not meet the OMB standard relating to the commuting rate of workers between the rural county and the central county or counties of any single adjacent MSA or NECMA.

- The aggregate commuting rate to the central county or counties of all adjacent MSAs or NECMAs is at least 15 percent of the number of residents of the rural county who are employed, or the total commuting rate to and from the central county or counties of all adjacent MSAs is at least 20 percent of the number of residents of the rural county who commute for employment and the county meets the applicable population criteria.

For purposes of payment under the prospective payment system, a hospital located in a rural county that qualifies under this provision is deemed to be located in the MSA to which the greatest number of workers in the rural county commute.

Congress intended that section 1886(d)(8)(B) of the Act apply to a limited number of hospitals that it believed merited payment as urban hospitals because of their location in counties adjacent to at least one MSA and their commuting patterns. However, many hospitals have sought urban classification under this provision, but their requests have been denied because the hospitals do not meet the specific criteria necessary for redesignation.

Congress addressed the many requests by hospitals for geographic reclassification with the enactment of

Section 6003(h)(1) of Public Law 101-239, which added new paragraph (10) to section 1886(d) of the Act. Section 1886(d)(10) of the Act provides for the establishment of the MGCRB, which has the authority to issue decisions on hospital requests for geographic reclassification. In addition, section 1886(d)(10)(D)(i) of the Act requires that the Secretary publish guidelines to be used by the MGCRB in making decisions on reclassification requests.

III. The MGCRB Provisions of the Omnibus Budget Reconciliation Act of 1989

On December 19, 1989, Public Law 101-239 was enacted. Section 6003(h)(1) of Public Law 101-239 added section 1886(d)(10) to the Act, which includes the following provisions that affect the geographic classification of hospitals for purposes of payment under the Medicare prospective payment system:

- Section 1886(d)(10)(A) of the Act establishes the MGCRB, which has the authority to issue decisions on hospital requests for geographic reclassification. Under section 1886(d)(10)(C)(i) of the Act, a geographic classification change is effective for the purposes of the hospital's average standardized amount, wage index value, or both, for a Federal fiscal year.

- Under section 1886(d)(10)(B)(i) of the Act, the MGCRB is to consist of five members appointed by the Secretary. Section 1886(d)(10)(B)(ii) of the Act required the Secretary to appoint the MGCRB members by 180 days after enactment of Public Law 101-239; that is, the appointments were to have been made by May 18, 1990.

- Section 1886(d)(10)(C)(ii) of the Act provides that a prospective payment system hospital may obtain a change in geographic classification on a prospective basis only. That is, if a hospital requests reclassification by the first day of a Federal fiscal year (October 1) and meets the specified criteria, the MGCRB reclassifies the hospital or hospitals effective the first day of the following Federal fiscal year.

- Under section 1886(d)(10)(C)(iii)(I) of the Act, the MGCRB is required to issue decisions on hospital applications for geographic reclassification filed within the above time frame no later than 180 days after the first day of the Federal fiscal year.

- Section 1886(d)(10)(C)(iii)(II) of the Act provides for appeals to the Secretary of an MGCRB decision and specifies that the Secretary's decision is to be issued not later than 90 days after the appeal is filed. The Secretary's decision is final, and is not subject to judicial review.

- Under section 1886(d)(10)(D)(i) of the Act, the Secretary is to publish guidelines by July 1, 1990 for use by the MGCRB in issuing reclassification decisions. These guidelines are to address the following issues:

- The comparison of wages, taking into account occupational mix, in the area in which the hospital is classified and the area in which the hospital is applying to be reclassified.

- The determination of whether the county in which the hospital is located should be treated as being a part of a particular MSA.

- The consideration of information provided by a hospital concerning the effects of the hospital's geographic reclassification on access to inpatient hospital services of Medicare beneficiaries.

- The appropriateness of criteria used to define NECMAs.

- Section 1886(d)(10)(E)(i) of the Act authorizes the MGCRB to make rules and establish procedures that are not inconsistent with the provisions of title XVIII of the Act or regulations of the Secretary.

- Section 1886(d)(10)(E)(i) of the Act also provides that the MGCRB may administer oaths and affirmations in the course of any oral hearing. In addition, the provisions of section 205 (d) and (e) of the Act with respect to subpoenas apply to the MGCRB to the same extent as these provisions apply to the Secretary under title II of the Act.

- The other provisions in section 1886 (d)(10)(E) and (d)(10)(F) of the Act provide for financial compensation for MGCRB members.

In addition, section 6003(h)(1) of Public Law 101-239 included the following provisions, which were later amended in part by the Omnibus Budget Reconciliation Act of 1990 (Pub. L. 101-508), as described in section IV below:

- Under section 1886(d)(10)(B)(i) of the Act, the MGCRB was to include: Two members who are representatives of prospective payment system hospitals located in rural areas; at least one member of the Prospective Payment Assessment Commission (ProPAC); and at least one MGCRB member knowledgeable in analyzing inpatient hospital service costs.

- Section 1886(d)(10)(C)(iii)(II) of the Act specified that a decision of the MGCRB was final unless an unsuccessful hospital or group of hospitals appealed the decision to the Secretary no later than 15 days after the date of the MGCRB decision. It also provided that the Secretary might not receive any new evidence on appeal, and must issue a decision based only

upon the record as it appeared before the MGCRB.

IV. The Omnibus Budget Reconciliation Act of 1990

On November 5, 1990, Public Law 101-508 was enacted. Section 4002(h) of Public Law 101-508 contained several provisions relating to the geographic classification of hospitals.

Section 4002(h)(1)(A)(ii) of Public Law 101-508 amended section 1886(d)(8)(C)(i)(II) of the Act effective for discharges occurring on or after January 1, 1991 by specifying that if including the wage data for the hospitals redesignated under section 1886(d)(8) and (d)(10) reduces the wage index value for an urban area by more than one percentage point, the wage index value for that urban area is to be calculated and applied separately to hospitals already located in that urban area (excluding the redesignated hospitals). The hospitals that are redesignated are to use the wage index value of the MSA that results from including the wage data of all the hospitals that are redesignated to the MSA in the determination. However, the wage index value for the redesignated hospitals cannot be less than the Statewide rural wage index value. This change was implemented in our January 7, 1991 final rule with comment period (56 FR 568), Mid-Year FY 1991 Changes to the Inpatient Hospital Prospective Payment System, and is also explained in section V of this preamble.

Next, section 4002(h)(2)(A) of Public Law 101-508 extended the deadline for hospitals to submit applications for geographic reclassification for Federal fiscal year 1992 from October 1, 1990 until November 6, 1990 (that is, 60 days after publication of the interim final rule with comment period). The interim final rule also had set November 6, 1990 as the deadline for complete applications, but it had required that hospitals submit initial applications by October 1, 1990.

Public Law 101-508 also contained several technical corrections to section 1886(d)(10) of the Act. First, section 4002(h)(2)(B)(i) of Public Law 101-508 changed the title of the Medicare Geographical Classification Review Board to Medicare Geographic Classification Review Board. In addition, section 4002(h)(2)(B)(ii)(I) of Public Law 101-508 amended section 1886(d)(10)(B)(i) of the Act to specify that two members of the MGCRB will be "representative of" but not be "representatives of" rural hospitals. Because we had concluded in developing the September 6, 1990 interim final rule that Congress meant that two members of the MGCRB were

to be representative of and familiar with rural hospitals, our implementation of the provision in that document (55 FR 36756) is consistent with section 4002(h)(2)(B)(ii)(I) of Public Law 101-508. Section 4002(h)(2)(B)(ii)(II) of Public Law 101-508 also amended section 1886(d)(10)(B) of the Act to delete the requirement that one member of the MGCRB be a member of the Prospective Payment Assessment Commission (ProPAC).

Finally, section 4002(h)(2)(B)(iv)(I) of Public Law 101-508 amended section 1886(d)(10)(C)(iii)(II) of the Act to require that the appeal of MGCRB decisions be subject to the provisions in section 557(b) of the Administrative Procedure Act (5 USC 557(b)), which specifies that:

"* * * When the * * * [MGCRB] makes an initial decision, that decision then becomes the decision of the agency without further proceedings unless there is an appeal to, or review on motion of, the agency within time provided by rule. On appeal from or review of the initial decision, the agency has all the powers which it would have in making the initial decision except as it may limit the issues on notice or by rule * * *

Previously, section 1886(d)(10)(C)(iii)(II) of the Act had only addressed the right of an unsuccessful hospital to appeal an MGCRB decision, while it remained silent with respect to review at the discretion of the Secretary.

As directed by revised section 1886(d)(10)(C)(iii)(II) of the Act, this final rule with comment period provides an explicit mechanism for the review of an MGCRB decision on the motion of the Secretary. The Secretary has delegated the authority to conduct this "own motion review" to the Administrator of HCFA who has redelegated it to the Deputy Administrator. The procedures that we are implementing for conducting own motion review, that is, discretionary review by the Administrator, are consistent with the provisions of section 5 U.S.C. 557(b). The new discretionary review procedure is set forth in section V.B.17 of this preamble and § 412.278 of the regulations.

In addition to the statutory changes, the Conference Committee Report accompanying Public Law 101-508 noted that, although section 4002(h)(2)(B)(iv)(I) of Public Law 101-508 struck the provision of section 1886(d)(10)(C)(iii)(II) of the Act that an MGCRB decision was final unless a hospital appealed the decision to the Secretary within 15 days after the decision, the Secretary shall retain the 15-day limit on hospital appeals. The Conference Committee report also directed the Secretary to provide that urban hospitals could be

reclassified jointly to another urban area. (H.R. Rep. No. 964, 101st Cong. 2nd Sess. 715 (1990).) Consequently, as explained in section V.C.7 below, we have added criteria (at § 412.234) concerning reclassification of all hospitals in a county located in an urban area to another urban area.

V. Discussion of Public Comments Concerning the September 6, 1990 Interim Final Rule

We received 48 timely comments from or on behalf of hospitals in response to the September 6, 1990 interim final rule. The main areas of concern addressed by the commenters were the following:

- Timeliness of publication of the interim final rule
- MGCRB composition and operating procedures
- Criteria and conditions for hospital reclassification

In the discussion below we have set forth the provisions of the September 6, 1990 interim final rule with comment, the relevant provisions of section 4002(h) that amended sections 1886(d)(8) and (d)(10) of the Act, the public comments that we have received concerning the September 6, 1990 interim final rule, our responses to those comments, and appropriate changes in response to public comments or to the provisions of revised sections 1886(d)(8) and 1886(d)(10) of the Act. In addition, we have made several technical changes to the provisions of the September 6, 1990 interim final rule.

A. Timeliness of Publication of the Interim Final Rule

Section 6003(h) of Public Law 101-239 provided that by July 1, 1990, the Secretary should publish guidelines to be used by the MGCRB in making decisions on applications for reclassification. The statute further provides that the MGCRB must issue its decisions on hospital requests for reclassification by March 30, 1991. This schedule allows hospitals to be paid during Federal fiscal year 1992 based on the new standardized amounts and wage index values that reflect the effects of the geographic reclassifications that take effect on October 1, 1991.

Comment: The regulations set forth in the interim final rule should not be implemented because they are procedurally flawed. That is, the rule was not published in a timely manner, and the use of an interim final rule with comment period forced hospitals to comply with regulations without having had a prior opportunity to comment.

Response: The use of an interim final rule with comment period to implement these regulations was essential to ensure that hospitals could apply timely for reclassification for FY 1992 and that the MGCRB can issue decisions on the applications by March 30, 1991, as required by section 1886(d)(10)(C)(iii)(I) of the Act. The delay that would have been necessitated by a prior notice and comment period would have been contrary to the public interest because it would have diminished opportunities for hospitals to file timely applications for reclassification for FY 1992 and to receive the potential benefits of reclassification. Although we were unable to provide a public comment period before the effective date of the interim final rule, we did provide for a 60-day public comment period in that rule. We are responding to the 48 public comments that we received in this final rule with comment period.

Comment: Publication of the interim final rule on September 6, 1990 did not allow enough time for hospitals to file applications with the MGCRB by the November 6, 1990 deadline. The MGCRB should have provided hospitals an additional 30 days to complete their applications.

Response: Because the interim final rule was published on September 6, we recognized the difficulty that hospitals would encounter in attempting to file complete applications by the then statutorily-mandated deadline of October 1 (see section 1886(d)(10)(C)(ii) of the Act). For this reason, we provided in the interim final rule for an extended deadline of November 6, 1990 (60 days after the publication of the interim final rule) for completing an initial application that had been filed with the MGCRB by October 1. In order to qualify for this one-time only extension, we required hospitals to comply with the requirement in section 1886(d)(10)(C)(ii) of the Act by filing initial applications with the MGCRB by October 1, 1990 and then to complete them by November 6, 1990. Congress also recognized the possible burden for hospitals in meeting the October 1, 1990 due date, and so included the provision in section 4002(h)(2)(A) of Public Law 101-508 to extend the application deadline for Federal fiscal year 1992 only until November 6, 1990.

In response to the interim final rule, the MGCRB received over 1,000 complete applications for geographic reclassification before the November 6, 1990 deadline. We believe that the large volume of timely and complete applications clearly demonstrated that Medicare hospitals were afforded

sufficient time for filing applications with the MGCRB.

In addition, under section 1886(d)(10)(C)(iii)(I) of the Act, the MGCRB is required to issue decisions on hospital applications no later than 180 days after October 1, that is, by the following March 30. Congress established this time limit so that the effects of reclassification could be reflected in the new standardized amounts and wage index values that take effect on October 1 of each year for prospective payment hospitals. If the MGCRB generally permitted hospitals to extend the filing deadline beyond November 6, it would be unable to satisfy the 180-day requirement for issuing decisions. However, in compelling circumstances, the MGCRB has granted short extensions beyond November 6, 1990 for completing an application to a hospital that met the November 6, 1990 filing deadline, but whose application failed to contain all the necessary elements of a complete application. Also, as discussed in section V.B.6 of this preamble, we have revised § 412.256(c) to specify that the MGCRB may for good cause grant a hospital an extension beyond the deadline of October 1 (for applications for reclassification for FY 1993 and thereafter) to complete its application.

B. MGCRB Composition and Procedures

1. Composition of the MGCRB

Section 1886(d)(10)(B)(i) of the Act provides that the MGCRB shall be composed of five members appointed by the Secretary. Prior to the enactment of section 4002(h)(2)(B)(ii) of the Omnibus Budget Reconciliation Act of 1990 (Pub. L. 101-508) on November 5, 1990, it further provided that two of the members shall be "representatives of" prospective payment system hospitals located in rural areas. We interpreted this provision to mean that the two members should be representative of and, therefore, familiar with, the concerns of rural hospitals, rather than serve as members who are representatives of or are selected by rural hospitals. Prior to the enactment of Public Law 101-508, the Secretary was also to appoint one member of ProPAC and at least one member who is knowledgeable in analyzing inpatient hospital service costs. (Section 4002(h)(2)(B)(ii) of Pub. L. 101-508 later eliminated the requirement that one member be a member of ProPAC.) The provisions concerning the composition of the MGCRB are set forth in 42 CFR § 412.246(a).

Under § 412.246(b), the term of office for MGCRB members is 3 years, except

that the Secretary may designate initial appointments for shorter terms to permit staggered terms of office. The Secretary will not appoint a member for more than two consecutive 3-year terms of office. The Secretary has the authority to terminate a member's tenure prior to its full term.

The Secretary designated one member of the MGCRB as the chairman. The chairman coordinates and directs the administrative activities of the MGCRB.

Comment: HCFA has misinterpreted the law in providing that two MGCRB members be "representative" of, and therefore, familiar with, the concerns of rural hospitals rather than serve as members who are "representatives" of or are selected by rural hospitals. HCFA's interpretation runs counter to the interests of rural hospitals and counter to the intent of the law. MGCRB members who are representatives of hospitals located in rural areas should be selected by rural hospitals with the assistance of the American Hospital Association, instead of HCFA, to ensure that rural hospitals are truly represented.

Response: Section 4002(h)(2)(B)(ii) of Public Law 101-508 substituted the word "representative" for the word "representatives" in section 1886(d)(10)(B)(i) of the Act to affirm, as the Secretary stated in the September 6, 1990 interim final rule, that rural hospital members of the MGCRB would represent rural hospital interests but would not be actual representatives of rural hospitals. A requirement that appointees be "representatives" of special interests would not only constitute an inappropriate constraint on the appointive power of the Secretary but would also be inconsistent with the undivided loyalty that an appointee owes to the public at large.

HCFA shares the concern about the safeguarding of rural hospital interests and believes such interests are being protected. Pursuant to section 1886(d)(10)(B)(i) of the Act the Secretary has appointed two members who are representative of rural hospital interests. While we do not agree that rural hospitals or the American Hospital Association should have the authority to appoint members of the MGCRB, we will consider their recommendations for future MGCRB membership.

Comment: In contrast with members of the Provider Reimbursement Review Board (PRRB), MGCRB members may be terminated before their three-year term has expired, potentially compromising their effectiveness.

Response: There is precedent in the PRRB regulations for termination of a

MGCRB member's 3-year term. Section 405.1845(b) of the regulations governing PRRB procedures states that "The Secretary shall have the authority to terminate a Board member's term of office for good cause." The Secretary has not invoked this authority to date. The Secretary needs to have similar termination authority over the MGCRB in case a member of the MGCRB fails to carry out his or her duties under the Act and regulations.

2. A Quorum

Under § 412.248, a quorum is required for making MGCRB decisions. A majority of all MGCRB members currently seated, at least one of whom, if possible, represents the interests of rural hospitals, constitutes a quorum.

Under § 412.448(b), in the event that four members are deciding a case, three votes are needed to change the hospital's classification. If less than a quorum is present for an oral hearing, the chairman, with the consent of the hospital, may designate less than a quorum to conduct the hearing. The member(s) in such cases submits a recommended decision for approval by a majority of the MGCRB members, including, if possible, a member who represents rural hospital interests.

3. Sources of MGCRB's Authority

Under § 412.250(a), the MGCRB, in exercising the authority to consider applications under section 1886(d)(10)(C) of the Act, complies with all the provisions of title XVIII of the Act and regulations issued under that title (which include guidelines published in the *Federal Register* under section 1886(d)(10)(D) of the Act) and HCFA Rulings issued under the authority of the Administrator. In addition, under § 412.250(b), the MGCRB affords great weight to other interpretive rules, general statements of policy and rules of agency organization, procedure, or practice established by HCFA.

4. Right To Submit Application to MGCRB

Under § 412.252(a), an individual hospital under the Medicare prospective payment system has the right to submit an application to the MGCRB concerning its request for a change in geographic classification based on hospital-specific criteria.

Under § 412.252(b), all prospective payment hospitals within a county, but only as a group, have the right to submit a joint application to the MGCRB concerning their request for the redesignation of all hospitals in the county into a different geographic area based on county-specific criteria.

5. Proceedings Before the MGCRB

Under § 412.254(a), the MGCRB is to issue an on-the-record decision (that is, a decision based on a review of submitted written material without any oral presentations) in each case, unless under § 412.254(b) the MGCRB schedules an oral hearing on its own motion or if a hospital can show to the MGCRB's satisfaction that a hearing is necessary.

Comment: We received specific recommendations regarding the operating procedures of the MGCRB as follows:

The MGCRB should lay out the basic application process, complete with format and instructions.

HCFA's final rule should provide the names and phone numbers of all MGCRB staff contacts as well as instructions on how to obtain information on individual applications.

The MGCRB should revise its form letter to eliminate the arbitrary and incorrect statement that the application will be dismissed if all applicable information is not submitted with the application.

The MGCRB's requirement that a hospital sign an affidavit to accompany its application is unnecessary and offensive.

Response: These comments concern internal MGCRB operating procedures and, as such, are governed by section 1886(d)(10)(E)(i) of the Act, which states that "the Board shall have full power and authority to make rules and establish procedures, not inconsistent with the provisions of this title or regulations of the Secretary, which are necessary and appropriate." * * * Therefore, these comments should be submitted directly to the MGCRB. Correspondence to the MGCRB should be addressed to the following individual: Mr. Steven R. Kirsh, Staff Director, MGCRB, Professional Building, suite 13, 8660 Security Boulevard, Baltimore, MD 21207. Phone: (301) 966-2038.

Comment: Each hospital should be provided with at least a 15-day notice as to the date and time its application is scheduled for review and consideration by the MGCRB. In addition, the regulations should be changed to grant hospitals the absolute right to an oral hearing.

Response: Since on-the-record review consists of examination of all written material and data submitted, no administrative purpose would be served by notifying a hospital of the date and time the review will take place. Also, such notification would prove to be a cumbersome task for the MGCRB, for example, in cases in which applications receive review by individual MGCRB members at different times.

The Act does not require the MGCRB to conduct oral hearings on hospital applications. If the MGCRB were compelled by regulation to hold oral hearings on all, or even a portion, of the applications it received from hospitals, it would be unable to issue decisions by the deadline of March 30. In addition, due process of law under the Fifth Amendment to the United States Constitution does not require oral hearings under these circumstances. As stated in the interim final rule, on-the-record decisions are entirely appropriate given the tight statutory timeframes for issuing decisions and the types of issues to be decided by the MGCRB. However, § 412.254 provides that the MGCRB may hold an oral hearing on its own motion or if a hospital demonstrates to the MGCRB's satisfaction that an oral hearing is necessary. Thus, a hospital may request an oral hearing and articulate in the request why an oral hearing may be necessary in a particular case.

6. Timing and Content of Application

A prospective payment system hospital may obtain a change in geographic classification on a prospective basis only. Under § 412.274(b)(1), a hospital may request the MGCRB to change its classification effective with the beginning of the second Federal fiscal year following the year in which the request is filed. (However, under § 412.274(b)(2), if a complete application is filed on October 1, the reclassification is effective the following October 1.) For example, a hospital desiring a reclassification for Federal fiscal year 1993 (October 1, 1992 through September 30, 1993) must file its written application no later than October 1, 1991. The MGCRB will dismiss a hospital's request for reclassification for Federal fiscal year 1993 that is filed after October 1, 1991.

Although applications may be submitted to the MGCRB as late as October 1, there is no guarantee that the MGCRB will find that an initial application contains the necessary elements of a complete application. Therefore, it is incumbent upon hospitals to submit their applications as early as possible so that the MGCRB may identify incomplete applications and allow hospitals to complete them prior to the October 1 deadline.

Under § 412.256(c)(1), the MGCRB has 15 days from the receipt of a hospital's application to review it and decide whether it is complete. The MGCRB notifies the hospital within that timeframe if the application is incomplete and advises the hospital that

it has until October 1 to complete the application. If a hospital submits its application by September 1, this should give the hospital 15 days or more to complete the application in accordance with the necessary criteria. A hospital submitting an incomplete application between September 2 and October 1 runs the risk of filing an incomplete application and not having enough time to complete the application by the filing deadline of October 1.

Under § 412.256(c)(2) in the interim final rule, the MGCRB dismisses an application that is not complete by the filing deadline. Dismissals are based on a hospital's failure to submit timely an application that contains all the necessary elements of a complete application, as explained below in this section. The MGCRB will not dismiss an application when the hospital has timely submitted all necessary elements of an application, but the data submitted do not support the hospital's request for reclassification. (As discussed below in a response to a comment, this final rule with comment period revises § 412.256(c) to specify that the MGCRB may for good cause grant a hospital an extension beyond the filing deadline to complete its application.)

A decision by the MGCRB dismissing a hospital's application as being incomplete or filed untimely will be mailed to the hospital and to HCFA. The dismissal order will contain the reasons for the action taken by the MGCRB. Under § 412.256(d)(1), the hospital may request that the Administrator review the dismissal within 15 days of the date of the notice of dismissal. Under § 412.256(d)(2), within 20 days of receipt of the hospital's appeal request, the Administrator may affirm the dismissal or reverse the dismissal and remand the case to the MGCRB to determine whether reclassification would be appropriate.

Under § 412.256(b)(2), the hospital, or all the hospitals in a county, must identify the guidelines under which reclassification is requested. As required by § 412.256(b)(3), the application must also contain sufficient documentation for the MGCRB to evaluate whether the criteria for reclassification are met. Under § 412.256(b)(3), the filing date of the application is the date the application is received by the MGCRB. Under § 412.256(a)(2), complete applications must be received by October 1 preceding the Federal fiscal year for which reclassification is requested. Applications must be mailed to the following address: Medicare Geographic Classification Review Board,

Professional Bldg., suite 13, 6660 Security Blvd., Baltimore, MD 21207.

Because the interim final rule with comment period was published so close to October 1, 1990, we recognized that many hospitals seeking reclassification for Federal fiscal year 1992 would be unable to submit complete applications to the MGCRB by October 1, 1990. Therefore, for the first application period only, we extended the deadline for completing applications to the MGCRB. We required that hospitals submit as complete an application as possible by October 1, 1990. However, if a hospital filed an application by that date, the MGCRB would consider additional information necessary to complete the application if the information was received by the MGCRB no later than 5:00 p.m. on November 6, 1990. (Section 4002(h)(2)(A) of Public Law 101-508 subsequently ratified this later deadline.) All other procedures connected with the applications process remain applicable.

Under § 412.256(a)(1), the MGCRB does not accept a facsimile (FAX) copy of an application or any additional material from the hospital or group of hospitals or from HCFA for any purpose related to filing or completing an application.

In the preamble of the interim final rule with comment period, we specified at 55 FR 36757 the elements that are necessary for a complete application:

a. Information required of individual hospitals

- Name of hospital.
- Address of hospital.
- Name and signature of responsible hospital official.
- County in which hospital is located.
- Demonstration of status as a rural referral center or sole community hospital status, if applying on the basis of access.

• Fiscal year for which the hospital is applying for redesignation.

• Names of all adjacent MSAs or NECMAs (or nearest MSA or NECMA if the applicant is a rural referral center or sole community hospital applying on the basis of access).

- Medicare provider numbers.
- Narrative explaining reason for requesting reclassification that must include:

—Which criteria in the guidelines constitute the basis of the hospital's application, that is, under which provisions in the regulations the hospital is applying; and

—An explanation of how the hospital meets the relevant criteria.

• Data from approved sources (as also described in the criteria contained

in § 412.230) to support the hospital's application.

b. Information Required for Joint Application From All Hospitals in a County Seeking Redesignation

- Names, addresses, county, and provider numbers of all hospitals.
- Names and signatures of responsible officials of all hospitals.
- Federal fiscal year for which hospitals are applying
- Narrative explaining reason for requesting reclassification must include:
 - Which criteria in the guidelines constitute the basis for the hospitals' application, that is, under which provisions in the regulations the hospitals are applying; and
 - An explanation of how the hospitals meet the relevant criteria.
- Data (from approved sources as also described in § 412.232(d)) to support the hospitals' application.

Comment: The definition of a complete application needs clarification.

Response: The interim final rule describes in great detail the elements necessary for a hospital to submit a complete application with the MGCRB. (See the September 6, 1990 interim final rule at 55 FR 36757, section III.A.6., and §§ 412.230 through 412.234.) Since the MGCRB received over 1,000 complete applications, and we received only one written comment questioning the definition, we believe that the criteria for a complete application included in the interim final rule provide hospitals with sufficient information to prepare their applications for geographic reclassification.

Comment: With regard to future applications submitted to the MGCRB, there may be a timing problem in that the interim final rule requires applications to be submitted by September 1, so that they may be perfected by October 1. Since final wage data are not available prior to September 1, it would be impossible for applications to be submitted by that date.

Response: The interim final rule does not require that applications be submitted by September 1. We have merely recommended that applications be submitted as early as possible, so that an incomplete application submitted prior to October 1 may be completed before the deadline prescribed in § 412.256(a)(2). Section § 412.256(c)(2) of the September 6, 1990 interim final rule also specified that the MGCRB would dismiss an application that was not complete by the statutory deadline of October 1. However, in this final rule with comment period, we are revising § 412.256 (c)(1) and (c)(2) to

specify that the MGCRB may dismiss an application which is not complete by October 1 and that, at the request of the hospital, the MGCRB may for good cause extend the deadline of October 1 for filing a complete application if an application has been submitted to the MGCRB by October 1.

We note that the appropriate wage data used for reclassification requests are available before September 1. Although the final wage index values are not published each year until September 1 as part of the final prospective payment rule, the wage survey data necessary to apply for reclassification for wage index purposes (see the wage comparison example at section V.B.5 of this preamble) is available from HCFA before that time. The survey data, rather than the wage index values, are used in determining whether a hospital qualifies for a wage index reclassification. Thus, there is nothing to preclude the hospital from filing an application prior to the September 1 final rule based on the latest hospital wage data available from HCFA. Except in those areas which require wage data corrections, the same wage data would be used to construct both the proposed wage index published in May and the final wage index published in September. (Regardless of when the application is filed, we anticipate that the MGCRB will base its decision on the best wage survey data available from HCFA as of the date the MGCRB makes its decision. We plan to furnish the MGCRB with information regarding wage data corrections on a routine basis so that these corrections can be taken into account.)

Comment: The official filing date for an application submitted with the MGCRB should be the postmark date rather than the date the application is received by the MGCRB, as required by § 412.256(a)(3) of the interim final rule.

Response: We believe that adopting the date of receipt of an application rather than the postmark date on the application as the applicable filing date is a reasonable, acceptable legal practice. This position is consistent with the regulations concerning the filing requirements for PRRB hearings. Additionally, courts require documents to be "in hand" to be considered filed. We suggest that applications be submitted by certified mail, return receipt requested, so that there will be no question of when an application is received by the MGCRB.

Comment: Section 412.256(d) of the interim final rule addresses the Administrator's authority to review the MGCRB's dismissal of an application. When the Administrator reverses the

dismissal and remands the case to the MGCRB, what is the timeframe for the MGCRB's decision?

Response: The MGCRB is still obligated to issue a decision on remand by March 30 in accordance with the deadline contained in section 1886(d)(10)(C)(iii)(I) of the Act. Section 412.256(c)(1) requires that the MGCRB notify a hospital that its application has been dismissed within 15 days of the filing date, and the hospital then has 15 days to appeal the dismissal to the Administrator (§ 412.256(d)(1)). If the Administrator reverses the dismissal, the case is remanded to the MGCRB within 20 days to determine whether reclassification is appropriate (§ 412.256(d)(2)). Therefore, the MGCRB should have sufficient time to issue a decision by March 30.

7. Party or Parties to MGCRB Proceeding

Under § 412.256(a), the party or parties to the MGCRB proceeding are the hospital requesting a change in geographic classification or group of hospitals requesting reclassification to an urban or rural area. Although not a party under § 412.256(b), HCFA reviews all applications and may offer comments and recommendations on selected applications, if appropriate, within 30 days of receipt of notification from the MGCRB that a complete application has been received. Under § 412.256(c), a hospital has 15 days from the date of receipt of HCFA's comments to submit written comments to the MGCRB, with a copy to HCFA, for the purpose of responding to HCFA's comments.

Therefore, when a hospital submits its application to the MGCRB for consideration, the hospital also sends an informational copy of the application and any accompanying evidence to HCFA in care of the Office of Payment Policy at the following address: Office of Payment Policy, Division of Hospital Payment Policy, Room 1-H-1, East Low Rise Building, 6325 Security Blvd., Baltimore, MD 21207. Re: MGCRB Applications.

Comment: There is no statutory basis for HCFA to participate in the MGCRB process.

Response: As stated in the interim final rule, HCFA is not a party before the MGCRB. However, HCFA is the Federal agency responsible for administration of the prospective payment system, including the establishment of geographic criteria for hospital classification and reclassification and the standardized amounts and wage index values. As such, it is important that HCFA be given an opportunity to provide the MGCRB with technical information regarding

geographical classification, and to comment on individual applications when HCFA deems it necessary. HCFA does not have an adversarial role in the MGCRB proceedings. Instead, its interests are in seeing that the MGCRB issues correct and fully-informed decisions on applications for geographic reclassification. The MGCRB is not bound to adopt HCFA's case-by-case comments or recommendations in its decisions. Moreover, a hospital has the opportunity to review and address HCFA's comments on its application prior to the issuance of the MGCRB's decision.

8. Establishment of Time and Place of an Oral Hearing by the MGCRB

Under § 412.260, if the MGCRB decides that an oral hearing is necessary, it sets the time and place for the hearing and notifies the hospital or group of hospitals in writing, with a copy to HCFA, not less than 10 days before the scheduled time. Either on its own motion or for good cause shown by the hospital or group of hospitals, the MGCRB may, as appropriate, reschedule, adjourn, postpone, or reconvene the hearing, provided that reasonable written notice is given to the hospital (or group of hospitals), with a copy to HCFA.

9. Disqualification of MGCRB Members

Section 412.262 concerns the disqualification of MGCRB members. A MGCRB member may not participate in a decision in a case in which he or she is prejudiced or partial with respect to a requesting hospital or has any interest in the matter pending before the MGCRB. If the hospital believes that an MGCRB member is prejudiced or partial and, therefore, should not participate in the decision, the hospital states its objection in writing to the MGCRB. HCFA may also submit such a suggestion to the MGCRB.

The MGCRB member considers the objection and, at his or her discretion, either proceeds in the conduct of the case or withdraws. If the MGCRB member does not withdraw, the hospital may petition the MGCRB for withdrawal of the member. At the earliest opportunity and before the reclassification decision is made, the MGCRB rules on this issue.

10. Evidence

Under § 412.264 (a) and (b), the parties may submit evidence during the course of an MGCRB proceeding, including evidence that is generally inadmissible under the rules of evidence applicable to court procedures. Under § 412.264(d), the

MGCRB rules upon the admissibility of evidence and comments and excludes irrelevant, immaterial, or unduly repetitious evidence and comments.

11. Ex Parte Communications

Under § 412.264(c)(1), the members of the MGCRB and its staff may not consult or be consulted by an individual representing the interests of an applicant hospital or by any other individual on any matter at issue before the MGCRB without notice to the hospital or HCFA. If such communication occurs, the MGCRB discloses it to the hospital or HCFA, as appropriate, and makes it part of the record after the hospital or HCFA has had an opportunity to comment. MGCRB members and staff may not consider any information outside the record about matters concerning a hospital's application for reclassification.

Under § 412.264(c)(2), the prohibition of ex parte communications does not apply to the following: communications among MGCRB members and staff; communications concerning the MGCRB's administrative functions or procedures; requests from the MGCRB to a party or HCFA for a document; and material that the MGCRB includes in the record after notice and an opportunity to comment.

Comment: In view of HCFA's role as technical advisor to the MGCRB, HCFA should be prohibited from engaging in ex parte communications. The same prohibition should apply to HCFA engaging in ex parte communications with the Administrator with regard to appeals.

Response: We believe that the existing regulations concerning MGCRB procedures provide adequate safeguards against ex parte communications. Under § 412.258(b), HCFA may provide written comments and recommendations to the MGCRB on a case-by-case basis, and it must provide simultaneously copies of any such communications to the hospital. Moreover, under § 412.264(c), if an ex parte communication occurs between MGCRB staff and HCFA, the MGCRB will disclose the communication to the hospital and make it part of the record after the hospital has had an opportunity to comment.

We agree that the restrictions on ex parte communications similar to those provided in § 412.264(c) should also apply to communications between HCFA policymaking components and the Administrator, when a case is reviewed by the Administrator. Accordingly, we have added new §§ 412.278 (c)(3) and (e) to address this issue. (Similar to the provisions in § 412.264(c)(2)(i), these restrictions do

not apply to communications between the Administrator and staff of the Office of the Attorney Advisor, which assists the Administrator in the review of PRRB and MGCRB decisions (55 FR 32149).)

When a hospital appeals a decision of the MGCRB, § 412.278(b) requires that the hospital and HCFA submit all comments and recommendations to the Administrator in writing and that the hospital or HCFA be given an opportunity to respond in writing to any comments or recommendations. When the Administrator undertakes discretionary review of a MGCRB decision, new § 412.278(c)(2) requires that the Administrator promptly notify the hospital that he or she has decided to review the MGCRB decision. The notice of review to the hospital indicates the particular issues to be considered, and includes copies of any comments submitted to the Administrator by HCFA staff concerning the MGCRB decision. New § 412.278(c)(3) specifies that the hospital has 15 days to submit to the Administrator a written response to the notice of review. New § 412.278(e) provides additional communication safeguards by specifying that all communications between HCFA staff and the Administrator concerning the Administrator's review of an MGCRB decision must be in writing, with copies furnished to the hospital. The communication procedures set forth in § 412.278(e) apply both to the Administrator's discretionary review of an MGCRB decision and to the Administrator's review at a hospital's request. The above provisions have been included to reduce hospital concerns about ex parte communications in the MGCRB and Administrator review processes.

12. Requests for Information or Data

Section 412.266 concerns requests for information and data. A hospital may request from HCFA wage data information necessary for a complete application. If the information is requested by September 1 (or by October 1, 1990 for applications for reclassification to be effective for Federal fiscal year 1992), HCFA provides the information to the hospital within 15 days in order for the hospital to complete its application by October 1. The request for this information from HCFA should be made to the following address: Office of Payment Policy, Division of Hospital Payment Policy, Room 1-H-1, East Low Rise Building, 6325 Security Blvd., Baltimore, MD 21207. Re: Request for HCFA Wage Data.

If HCFA does not respond timely to the request for wage data necessary for

the hospital to file a complete application timely, the hospital should file its application; provide a copy of the prior request to HCFA for data; and request the necessary information through the MGCRB. That request must accompany the application to the MGCRB. If the MGCRB grants the request, HCFA must respond within 15 days of the MGCRB's ruling.

13. Subpoenas

Section 412.268 sets forth rules concerning use of subpoenas by the MGCRB. When reasonably necessary for the full presentation of a case, and only after a predecision request for information or data has failed to produce the necessary evidence, the MGCRB may, either upon its own motion or upon the request of the hospital, issue subpoenas for the attendance and testimony of witnesses (for an oral hearing) or for the production of books, records, correspondence, papers, or other documents that are relevant and material to any matter in issue. A party that desires the issuance of a subpoena files with the MGCRB a written request prior to the decision. The request must designate which witnesses or documents are to be produced, and describe the addresses or locations with sufficient particularity to permit these witnesses or documents to be found. The request for a subpoena must state the pertinent facts that the party expects to establish by the requested witnesses or documents and whether these facts could be established by other evidence without the use of a subpoena. Subpoenas are issued as provided in section 205(d) of the Act.

14. Witnesses

Under § 412.270, witnesses at an oral hearing testify under oath or affirmation, unless excused by the MGCRB for cause. The MGCRB may examine the witnesses and also allow the hospital or its representative to examine any witnesses called. In addition, the hospital may cross-examine any witnesses who are called to testify.

15. Record of Proceedings Before the MGCRB

Under § 412.272, a complete record of the proceedings before the MGCRB is made in all cases. The record is not closed until a decision has been issued by the MGCRB. A transcription of an oral hearing is made at a party's request, at the expense of that party.

16. MGCRB Decision and Notice

Under § 412.276, the MGCRB issues a written decision within 180 days after the first day of the Federal fiscal year preceding the Federal fiscal year for which a hospital has filed a complete application for reclassification. The decision is based on the evidence of record, including the hospital's application and other evidence obtained or received by the MGCRB. A MGCRB decision changing a hospital's classification is effective for one year, effective for discharges occurring on or after the first day of the Federal fiscal year following the MGCRB decision, and expiring with discharges occurring on the last day of that same Federal fiscal year.

A copy of the decision is mailed to the hospital and to HCFA. The MGCRB notifies the hospital or group of hospitals that it has 15 days from the date of the decision to request the Administrator to review the decision. The decision of the MGCRB is final and binding on the hospital and HCFA, unless it is reviewed by the Administrator in accordance with § 412.278.

Comment: Hospital redesignations should be granted for more than one year because of the difficulty of engaging in long-term financial planning.

Response: Section 1886(d)(10)(C)(i) of the Act specifies that the MGCRB's determination regarding a hospital's application for geographic reclassification be for a period of a fiscal year. Accordingly, the prescribed term of an MGCRB decision is one year. As provided under § 412.274(c), however, the MGCRB may determine that the facts supporting the decision will remain essentially unchanged through the end of the fiscal year following that for which application is made. In this case, the MGCRB may provide for either a one-year automatic renewal of its decision or an abbreviated application and decision process for renewal under § 412.274(c).

If the Board decides that it is possible the supporting data will vary to the point that a hospital would not qualify for reclassification in subsequent years, it would be inappropriate for the Board's decision to be for a longer term than one year. In this regard, we note that the results of the comparison between the hospital's cost per case and the standardized amount will change annually based on the more recent cost report data and updated standardized amounts. Beginning in FY 1994, the wage comparison results will also change annually since the wage data will be updated annually.

Comment: Although the fiscal intermediary is not involved in the MGCRB proceedings, HCFA should establish a procedure for notifying the intermediary of a hospital's successful application for reclassification.

Response: We agree that fiscal intermediaries must be informed regarding hospital reclassifications and are now developing procedures to do so on a routine basis. We will notify intermediaries of all hospital reclassifications before the beginning of the Federal fiscal year in which the redesignations take effect, and provide the necessary instructions for updating the provider-specific files to reflect the redesignations. In addition, the new wage index value applicable to a reclassified hospital will be incorporated into the PRICER program used to determine the amount of a hospital's prospective payment.

Comment: If the MGCRB fails to issue a decision by the required deadline of March 30, a hospital's request for redesignation should be automatically approved.

Response: Under section 1886(d)(10)(C)(iii)(I) of the Act, the MGCRB must issue all decisions on hospital requests for reclassification by March 30. The Board fully understands its statutory duty and will endeavor to issue decisions by this deadline for all timely and complete applications filed by hospitals. The statute does not provide any basis for the automatic approval of a hospital's request for redesignation.

At the same time, we recognize that in its first year of operation, the MGCRB has been inundated with applications for reclassification and, as a result, it is possible that the MGCRB may not be able to issue decisions on every application by March 30. If this occurs, we will base the FY 1992 proposed wage index and budget neutrality adjustment on the cases that have been decided by March 30. However, we anticipate that all decisions will be made and the administrative review process completed in time for all decisions to be reflected in the final rule setting forth the FY 1992 prospective payment rates for Medicare inpatient hospital services.

Comment: Several of the timeframes set forth in the interim final rule are not fair to hospitals. In particular, the requirement under § 412.276(a) that a hospital must request Administrator review of a Board decision within 15 days after the MGCRB issues its decision is unduly burdensome and should be changed to "within 15 days of receipt of the MGCRB's decision."

Response: Time is of the essence throughout the MGCRB decision-making

and appeals process. Under section 1886(d)(10)(C)(iii)(I) of the Act, the MGCRB must issue its decisions no later than 180 days after October 1, and the Administrator must issue a decision within 90 days of the date of an appeal. Congress specified these very tight timeframes in order to ensure that the effects of reclassifications could be reflected in the new standardized amounts and wage index values for prospective payment hospitals that go into effect on October 1 of each year. We urge hospitals to both familiarize themselves with, and adhere to, the necessarily tight timeframes for application and appeal. Relaxation of these requirements would jeopardize the ability of the MGCRB and the Administrator to meet their statutory decision-making deadlines.

17. Administrator's review

Under section 1886(d)(10)(C)(iii)(II) of the Act, the Secretary has the authority to review decisions by the MGCRB regarding geographic reclassification or redesignation. The Secretary has delegated this authority to the HCFA Administrator who has redelegated it to the Deputy Administrator. Thus, the Deputy Administrator's review is the final Department review of MGCRB decisions. (For the sake of simplicity, the final Department review of MGCRB decisions which is conducted by the Deputy Administrator is referred to hereafter in this preamble and in § 412.278 as "Administrator's review".)

Prior to the enactment of Public Law 101-508, section 1886(d)(10) of the Act did not specifically address HCFA's authority to review and MGCRB decision at the discretion of the Administrator or the Secretary. Accordingly, in the interim final rule, the Secretary delegated to the MGCRB the authority to issue final decisions on applications for geographic reclassification, unless the MGCRB's decision is appealed to the Administrator by a hospital. However, we asserted that nothing in this delegation to the MGCRB prejudiced the Secretary's authority to amend the delegation at some future date and to delegate the authority to review all MGCRB decisions to the Administrator of HCFA or elsewhere.

Subsequently, as noted in section IV of this preamble, section 4002(h)(2)(B)(iv) of Public Law 101-508 amended section 1886(d)(10)(C)(iii)(II) of the Act by deleting the first two sentences, which read:

A decision of the Board [MGCRB] shall be final unless the unsuccessful applicant appeals such decision to the Secretary by not

later than 15 days after the Board renders its decision. The Secretary in considering the appeal of an applicant shall receive no new evidence but shall consider the record as a whole as such record appeared before the Board.

Section 4002(h)(2)(B)(iv) of Public Law 101-508 further amended section 1886(d)(10)(C)(iii)(II) of the Act to require that the appeal of MGCRB decisions be subject to section 557(b) of the Administrative Procedure Act. Section 557(b) of the Administrative Procedure Act specifies that:

" * * * When the * * * [MGCRB] makes an initial decision, that decision then becomes the decision of the agency without further proceedings unless there is an appeal to, or review on motion of, the agency within time provided by rule. On appeal from or review of the initial decision, the agency has all the powers which it would have in making the initial decision except as it may limit the issues on notice or by rule * * * "

In response to the provisions of Public Law 101-508, we have revised § 412.278 to incorporate procedures for discretionary review by the Administrator. For those instances in which the Administrator decides to review MGCRB decisions, the process is as follows:

- Under § 412.278(c)(1), the Administrator has the discretion to review any final decision of the MGCRB.
- Section 412.278(c)(2) specifies that if the Administrator decides to review the decision, the Office of the Attorney Adviser (OAA) will promptly send a notice of review to the hospital and to HCFA and will indicate the particular issues to be considered. The notice will include copies of any comments submitted to the Administrator by HCFA staff concerning the MGCRB's decision.
- Under § 412.278(c)(3), the hospital has 15 days from receipt of this notice to submit its comments to the Administrator, with a copy to HCFA.
- Section 412.278(d) sets forth the criteria for discretionary review by the Administrator. In deciding whether to review an MGCRB decision, the Administrator will normally consider whether it appears that:
 - The MGCRB made an erroneous interpretation of law, regulation or HCFA Ruling;
 - The MGCRB's decision is not supported by substantial evidence;
 - The case presents a significant policy issue based in law or regulation, and review may be needed to clarify a provision in law or regulation;
 - The MGCRB's decision requires clarification, amplification or an alternative legal basis; or

—The MGCRB has incorrectly extended its authority beyond that provided by law, regulation or HCFA Ruling.

• For cases reviewed at his or her discretion, the Administrator must issue a decision in writing within 105 days of the MGCRB decision. The statute does not prescribe a period for the Administrator to issue decisions on cases reviewed at his or her discretion. However, we are requiring that the Administrator's decision be issued within 105 days of the MGCRB decision to ensure that these cases are decided within a time period consistent with those decided on appeal, that is, the 15 days in which the hospital may appeal the MGCRB's decision to the Administrator plus the 90-day review period.

Public Law 101-508 did not necessitate changes in the procedures set forth in the interim final rule (under § 412.278) for appeals at the request of hospitals. As noted in section IV of this preamble, the Conference Committee Report accompanying Public Law 101-508 directed that the Secretary retain the requirement that a hospital must appeal an MGCRB decision to the Secretary within 15 days of the decision. (H.R. Rep. No. 964, 101st Cong. 2nd Sess. 715 (1990).) In addition, we have retained in this rule the provision in § 412.278(c) prohibiting the consideration of new evidence by the Administrator in reviewing an MGCRB decision. The prohibition on new evidence (which is redesignated in this final rule with comment period to § 412.278(f)(1)) is necessary because the Administrator must issue a decision within 90 days from the date of the hospital's appeal request or, in cases decided pursuant to discretionary review authority, within 105 days from the date of the MGCRB decision. If the Administrator were permitted to consider new evidence on appeal, it is unlikely that he or she would be able to satisfy these requirements. As stated above in a response to comment, these tight timeframes are needed in order to permit the effects of reclassifications to be reflected in the new standardized amounts and wage index values for prospective payment hospitals that go into effect on October 1. In addition, the regulations already specify in great detail what documentation is necessary to support a request for reclassification. That documentation should all be included with the original application.

However, as detailed below, we have redesignated portions of § 412.278 to accommodate the addition of the new provisions regarding discretionary review by the Administrator. We have also revised former § 412.278(c)(3) to

provide at § 412.278(f)(2)(i) that the Administrator must "issue" a decision within 90 days of a hospital's request for review, rather than "furnish" the decision to the hospital within 90 days.

Under § 412.278(a), if a hospital is dissatisfied with the MGCRB's decision regarding its geographic classification, the hospital may request the Administrator to review the decision. In addition, a hospital may request that the Administrator review the dismissal of its application by the MGCRB. In conjunction with considering the request for review, the Administrator may also review rulings made by the MGCRB regarding admissibility of evidence, and if the Administrator decides that an MGCRB evidentiary ruling is erroneous, the Administrator has the authority to consider the previously excluded evidence or exclude (or assign a different probative value to) previously considered evidence.

Under § 412.278(b)(1), "the hospital's request for review must be in writing and sent to the Administrator, in care of the Office of the Attorney Adviser, as follows: Office of the Attorney Adviser, Room 669, East High Rise Building, 6325 Security Blvd., Baltimore, MD 21207. Re: Appeal of MGCRB Decision.

The request must be received by the Administrator within 15 days after the date of the MGCRB's decision. A request for Administrator review filed by facsimile or other electronic means will not be accepted. The hospital must also mail a copy of the request for Administrator review to HCFA's Office of Payment Policy at the following address: Office of Payment Policy, Division of Hospital Payment Policy, Room 1-H-1, East Low Rise Building, 6325 Security Blvd., Baltimore, MD 21207. Re: Appeal of MGCRB Decision.

Under § 412.278(b)(2), the request for review may contain proposed findings of fact and conclusions of law, disagreements with the MGCRB's decision, and supporting reasons therefore.

Under § 412.278(b)(3), within 15 days of receipt of the hospital's request for review, HCFA may submit to the Administrator, with a copy to the hospital, written comments concerning the hospital's request. Section 412.278(b)(4) allows the hospital 10 days from receipt of HCFA's comments to submit a response to the Administrator. As noted above in a response to comment, new § 412.278(e) provides for additional communication safeguards applicable to the Administrator's review of an MGCRB decision both at a hospital's request or at his or her discretion.

Under 412.278(f), the Administrator may not consider any new evidence and is to issue a decision based only upon the record as it appeared before the MGCRB. The Administrator's decision is issued in writing to the party with a copy to HCFA not later than 90 days following receipt of the hospital's request for review or not later than 105 days following the MGCRB's decision for cases reviewed at the discretion of the Administrator. The Administrator's decision is final and is not subject to judicial review.

Comment: According to § 412.278(c) of the interim final rule, the Administrator's review of an MGCRB decision is to be based only upon the record as it appeared before the MGCRB. This requirement precludes a hospital from giving reasons why it believes the MGCRB decision is incorrect.

Response: Although the Administrator is constrained from considering any new evidence in reviewing the MGCRB decision, a hospital's request for review may contain proposed findings of fact and conclusions of law, as well as other supporting reasons for disagreement with the MGCRB decision. Both the preamble to the interim final rule (55 FR 36759) and § 412.278(b)(2) of the regulations discuss the permitted contents of a hospital's review request.

18. Representation

The rules concerning representation are set forth in § 412.280. A hospital may be represented by legal counsel or any other person appointed to act as its representative with regard to any application filed by a hospital, which is under consideration by the MGCRB or the Administrator.

A representative appointed by the hospital may accept or give on behalf of its client any request or notice relative to any application before the MGCRB or the Administrator. A representative is entitled to present evidence and allegations as to facts and law regarding a hospital application to the same extent as the party he or she represents. Notice of any action or decision sent to the representative of a party has the same effect as if it had been sent to the party itself.

B. Criteria and Conditions for Geographic Reclassification

As required by section 1886(d)(10)(D) of the Act, the September 6, 1990 interim final rule with comment period set forth guidelines to be used by the MGCRB in making its decisions on requests for geographic reclassification. Guidelines concerning the criteria and conditions for hospital redesignation are located in

§§ 412.230 through 412.236. The purpose of these criteria is to provide direction, to both the MGCRB and those hospitals seeking geographic reclassification, with respect to the situations that merit an exception to the rules governing the geographic classification of hospitals for purposes of payment under the Medicare prospective payment system.

Section 1886(d)(10)(D) of the Act specifies that the criteria address the following:

- The comparison of wages, taking into account occupational mix, in the area in which the hospital is classified and the area in which the hospital is applying to be classified.
- The determination of whether the county in which the hospital is located should be treated as being a part of a particular MSA.
- The consideration of information provided by an applicant with respect to the effects of the hospital's geographic classification on access to inpatient hospital services of Medicare beneficiaries.
- The consideration of the appropriateness of criteria used to define NECMAS.

1. General Principles

The following general principles apply to the criteria:

- The MGCRB has the authority to make decisions with respect to reclassification from a rural area to an urban area or another rural area and reclassification from an urban area to another urban area.
- In order to be reclassified, a hospital, or group of hospitals, must be located in a county or MSA that is adjacent to the MSA or rural area to which that hospital or group of hospitals seeks reclassification. That is, the border must be contiguous. However, this requirement does not apply with respect to rural referral centers and sole community hospitals that apply for urban redesignation, as explained below.
- Decisions of the MGCRB may be applicable either to a single hospital based on hospital-specific criteria, or to all hospitals in a county based on county-specific criteria. In the latter case, an application must be signed by all hospitals in the county that are subject to the prospective payment system.

• Although all hospitals located in a qualifying rural county could be deemed a part of an adjacent MSA or NECMA for payment purposes under the prospective payment system, the population of that county would not be included in the MSA or NECMA for purposes of determining whether the

MSA or NECMA is a large urban area (that is, an MSA with a population of at least 1,000,000 or an NECMA with a population of at least 970,000). The MGCRB does not have the authority to designate areas as large urban areas by including the population of additional counties.

• It is the responsibility of the hospital to acquire and furnish data to support its application. In general, only substantiated data from an official source are acceptable for use by the MGCRB in issuing its decisions. Moreover, where data are available on a national basis, the national data must be used since all hospitals have equal access to these data sources. For example, with respect to population and commuting data, the Bureau of Census is the only national data source available to all hospitals. Therefore, local population and commuting studies would not be acceptable since these studies may not be consistent with Census Bureau data and are not available to all hospitals on a national basis.

With respect to hospital-specific data, for the most part only data used in preparing a hospital's Medicare cost report or HCFA wage survey form would be acceptable, since these data were used in official documents submitted by hospitals and have generally been substantiated by the fiscal intermediaries. In the September 6, 1990 interim final rule with comment, we provided the following list of acceptable data sources (55 FR 36760):

—Financial Data

Hospital-specific data—Most recently settled and most recently filed cost report data.

Data for other hospitals—Appropriate published Federal Register final rule revisions to the prospective payment system rates for Medicare inpatient hospital services; and data from the most recent HCFA wage survey.

HCFA wage data can be obtained by contacting Lana Price at the following address: Office of Payment Policy, Division of Hospital Payment Policy, Room 1-H-1, East High Rise Building, 6325 Security Blvd., Baltimore, MD 21207. (301) 966-4534.

—Occupational Data

Bureau of Labor Statistics, Industry Wage Survey: Hospitals.

Occupational mix data from the American Hospital Association annual survey data "Hospital Personnel by Occupational Category, Annual Survey of Hospitals."

AHA wage data can be obtained by contacting Ollie Williams of the AHA at (312) 280-5991.

—Access, Appropriateness and Population

Residence of employees—verified by hospital payroll records.

Population, population density, and commuting data—Bureau of the Census, specifically, population surveys and estimates made periodically by the Bureau of the Census.

The MGCRB may not consider commuting data that are more recent than the most recent decennial census because the Bureau of Census does not update commuting data more often than once every ten years. However, the MGCRB will consider requests based on more recent Bureau of Census data regarding population density, population growth, and changes in designation of urbanized areas.

Comment: HCFA's reliance in the reclassification guidelines on a historical cost-based methodology is biased since it perpetuates payment inequities and rewards inefficiency. Hospitals should be able to qualify for reclassification based on various demonstrations of comparability, such as range of services, occupations, case-mix index, or, for a rural referral center, service certifications.

Response: Under the prospective payment system, the geographic classification system is intended to group hospitals which face similar market conditions. Urban hospitals tend to have higher costs even after accounting for wage differences, case mix, teaching intensity and services to low income patients. The higher costs are largely attributable to differences in the mix and volume of services provided that reflect a wider range of available services and differences in practice patterns. Thus, hospitals in urban areas tend to treat relatively more complex cases, employ more technologically-intensive treatment practices, and offer a broader range of services. Rural hospitals tend to treat less complex cases and use fewer and less costly resources. Within each labor market area, hospitals are assumed to compete for employees.

We believe that the geographic reclassifications should be limited to those hospitals which are disadvantaged by their current geographic classification because they compete with the hospitals that are located in the geographic area to which they seek to be reclassified. We believe it is appropriate for the reclassification guidelines

pertaining to the standardized amount to have a direct relationship to the hospital's costs per case since it is a measurement of whether the hospital is providing services that are more comparable to those provided by an urban hospital or a rural hospital. We do not have standard measurements that would allow us to compare directly and readily differences in service intensity that are not accounted for by the DRG case mix measurement. The use of cost per case as the measure rests on an underlying assumption that the hospital is operating efficiently and that costs are comparable because it is treating a similar mix of patients with comparable resources.

Regarding reclassification for purposes of the wage index, we believe that the comparison of the hospital's average hourly wage with the average hourly wage of the area to which it seeks reclassification is the appropriate measure of whether it competes with hospitals in the adjacent area for employees.

With respect to the concern that the guidelines for reclassification perpetuate historical payment inequities, we do not believe that the geographic reclassifications under section 1886(d)(10) are intended to address the broader issue of payment equity and the urban/rural differential in the standardized amounts under the prospective payment system. We believe that section 1886(d)(10) addresses those situations where a hospital competes in the same market with hospitals in an adjacent area; that is, the hospital is more like the hospitals in the adjacent area than the hospitals in its geographic area. We recognize that in relying on cost comparisons in making that determination, hospitals with lower costs per case or wage costs will not be able to qualify for reclassification. However, we do not believe it would be appropriate to reclassify these hospitals since their current cost level does not indicate that they are comparable to hospitals in the adjacent area. The broader issue of urban/rural differentials was addressed by section 4002(c) of Public Law 101-508, which phases out the differential between the rural and other urban standardized amounts by FY 1995.

Comment: The regulations set forth in the September 6, 1990 interim final rule do not allow the Board enough latitude to make decisions concerning the reclassification applications. Specifically, the Secretary was directed to issue "guidelines", rather than the more strict "criteria" contained in the interim final rule. One commenter suggested that HCFA establish an

administrative resolution process to expedite decisions on cases that clearly met the guidelines for reclassification.

Response: The legislative history of section 1886(d)(10) of the Act does not provide guidance as to Congressional intent concerning the type of circumstances that would merit reclassification and, therefore, the exact nature and extent of guidelines that the Secretary should establish. We note that Public Law 101-508 included a number of revisions to section 1886(d)(10) of the Act; however, none of the provisions in Public Law 101-508 dealt with the specific criteria included in the interim final rule. While the language in the Conference committee report accompanying Public Law 101-508 (H.R. Rep. No. 964, 101st Cong., 2nd Sess. 715 (1990)), did suggest an alternative threshold with respect to the wage criteria and clarified Congressional intent concerning joint applications for urban to urban reclassifications, there was no indication that the establishment of specific guidelines and numeric thresholds were contrary to Congressional intent. Moreover, the fact that the Conference committee language did suggest an alternative threshold would imply that the Congress generally endorsed the approach set forth in the interim final rule.

We believe the specific criteria with respect to data requirements and qualifying thresholds are necessary to ensure that all hospitals are treated fairly and consistently. In addition, our goal in establishing the guidelines was to develop a simplified process, whereby hospitals could readily complete their own applications. The numeric thresholds help to facilitate this application process as well as to expedite the determination process. Given the volume of applications, a determination process with less specific criteria would likely be a more time-consuming process and, therefore, would make it less feasible for the MGCRB to meet the March 30 deadline for issuing its decisions. We note that although commenters suggested that the MGCRB be provided with more discretion, these commenters did not suggest alternative guidelines that could be readily applied in a consistent and equitable manner.

Moreover, we believe that the regulations do provide the MGCRB with a substantial amount of latitude both to evaluate applications and render decisions with respect to the acceptability of the documentation submitted to support the reclassification requests. Following are examples from each stage of the process that illustrate

the areas of discretion afforded the MGCRB in the interim final rule:

- *Application process.* The MGCRB has the responsibility to determine if a complete application was filed timely and whether circumstances warrant additional time to submit supplemental information in the case of an incomplete application.

- *Methodology.* Although we have described a methodology that should be followed by hospitals in determining if the various criteria are met, the MGCRB has the discretion to accept an alternative methodology that establishes that the specified criteria are met if the MGCRB determines it is also appropriate. For example, we have established a methodology to determine if the hospital meets the cost criterion for reclassification for purposes of the standardized amount. If a hospital uses a different methodology to make the cost comparison based on acceptable data, the MGCRB may nevertheless determine that the hospital has demonstrated that it qualifies for reclassification.

- *Standardized cost comparison.* The MGCRB has the responsibility to determine if the hospital's costs reported on the hospital's most recently filed cost report appear reasonable and should be used in making the cost comparison.

- *Wage data comparison.* The MGCRB is responsible for determining if the occupational mix categories used by the hospital are reasonable.

- *Special access rule.* The MGCRB has discretion in defining the closest MSA for purposes of SCH and RRC reclassifications.

- *Renewals.* Depending on its assessment of the individual hospital or group of hospitals seeking reclassification, the MGCRB has the discretion to grant a reclassification for one year only, to provide for an automatic one-year renewal, or to provide for an abbreviated application process in the second year.

We note that if we were to expand the variables which the MGCRB may consider in determining if reclassification is appropriate, we would provide the MGCRB with authority both to deny certain reclassifications even though the specified criteria are met, as well as to permit certain reclassifications even though the specified criteria are not met. The guidelines that we have established are quite liberal, as evidenced by the volume of applications from hospitals contending that they meet the current criteria. Therefore, we believe that there is a greater likelihood that the MGCRB would determine, if given the discretion, that in particular cases the specified

criteria are too lenient rather than too restrictive. For example, the cost comparison for purposes of the standardized amount is based on an assumption that the hospital is operating efficiently. There may be cases where a hospital's higher costs per case result from low occupancy rather than the volume and mix of services it provides. Another example is a situation where there is no evidence that access to care is threatened by a hospital's current labor market classification because Medicare payments more than adequately compensate the hospital for the services it provides to Medicare patients. Since aggregate payment levels are unaffected by geographic reclassifications, we believe that our responsibility to other hospitals to protect against inappropriate reclassifications is equal to our responsibility to assure that hospitals meriting reclassification are afforded proper consideration.

Accordingly, we plan to evaluate the extent and appropriateness of reclassifications under the current criteria. If our analysis indicates that specific criteria do not result in appropriate reclassifications because they are either too liberal or too stringent, or do not allow the MGCRB adequate discretion, we will propose revisions to the guidelines for future application cycles.

In establishing the MGCRB, Congress expressed its clear intent that the MGCRB make the initial decision on hospital requests for reclassification. Given the MGCRB's clear responsibility to make decisions concerning reclassification applications and the degree of judgment required of the MGCRB in doing so, we do not believe that HCFA should have any initial decision-making authority in a hospital's request for reclassification. Thus, an administrative review process to expedite decisions on cases that appear on the surface to meet the guidelines would not be appropriate. However, we note that the MGCRB has the authority to establish necessary and appropriate procedures that are consistent with the statute and regulations. Thus, the Board would not be precluded from establishing internal procedures to expedite decisions on certain cases.

Comment: The MGCRB interim final rule was flawed in that it failed to address the disparate wage levels paid by inner-city hospitals and suburban hospitals within an existing urban area. Specifically, the guidelines do not authorize the MGCRB to recognize the substantially higher wages paid by hospitals in "core" urban areas compared to hospitals in the suburban

"ring" areas within the existing MSAs and NECMAS. When Congress established the MGCRB under section 1886(d)(10) of the Act, it intended to create a mechanism under which any prospective payment hospital could request a change in geographic reclassification, without restricting such reclassifications to the existing MSAs or NECMAS. By not expressly granting the MGCRB the authority to recognize and approve reclassification requests by city hospitals, HCFA has unreasonably restricted the MGCRB's authority.

Response: When Congress added section 1886(d)(10) to the Act its intent was to allow hospital reclassification from one established geographic area to another. Congress made no provision for the establishment of new labor market areas by the MGCRB. In directing the Secretary to establish guidelines to be utilized by the MGCRB in furnishing its decisions, Congress specified in section 1886(d)(10)(D) of the Act that the guidelines address reclassifications from one labor market area to another; reclassifications from one area to a particular MSA; the effects of geographic classification on access to care; and the appropriateness of the criteria used to define NECMAS. Had Congress intended that the MGCRB be given authority to redefine labor market areas, the Secretary would have been directed to establish such guidelines under section 1886(d)(10)(D) of the Act.

Section 1886(d)(3)(E) of the Act provides that the Secretary shall adjust the proportion of hospitals' costs which are attributable to wages and wage-related costs for area differences in hospital wage levels by a factor established by the Secretary. Under this authority, the Secretary establishes labor market areas in order to adjust for different area wage levels. In contrast, the MGCRB's function is to consider whether hospitals are appropriately classified into the labor market areas established by the Secretary. Absent specific Congressional direction, we believe that it would be inappropriate for the Secretary to delegate to the MGCRB the authority to establish guidelines that would give the MGCRB jurisdiction to consider requests to establish new labor market areas.

Comment: The interim final rule did not provide sufficient flexibility in terms of the data sources permissible for use with hospital reclassification requests. Hospitals should be able to use the Medicare cost report, as well as other alternative data sources such as local survey data, market research and hospital payroll records. One commenter asserted that in view of

perceived inaccuracies in the American Hospital Association (AHA) Annual Survey data, other data sources should be used.

Another commenter suggested that a hospital should be able to submit any evidence it chooses to the MGCRB, and the MGCRB should then decide whether such evidence is relevant. Further, a hospital should be allowed to submit relevant evidence that becomes available after the deadline for filing an application.

Response: While it is true that no data source is perfect, consistency must be a requirement for the data used for reclassification purposes. In order to ensure that no individual hospital or groups of hospitals can obtain an unfair advantage in the reclassification process, it is necessary to require that hospitals rely on data that are uniformly available throughout the nation. While the local data in one area may be valid, the inability of another area to access the same data introduces a bias to the process. Also, the data must be verifiable by the MGCRB. Therefore, local commuting surveys, market research, or individual hospital payroll records other than those specified in § 412.230 are not acceptable.

With respect to the wage data, it is essential to use standard data for the same time period so that the wage comparisons can appropriately reflect labor costs for the same point in time. The Medicare cost report cannot be used because it does not show paid hours. Hospital payroll data for other than the cost reporting period ending in 1988 would not be audited or otherwise verified and therefore cannot be used. Other than the Bureau of Labor Statistics' data, there are no alternative occupational mix data sources to the AHA Annual Survey that are comparable across areas and can be consistently applied.

Section 412.230(e) provides that only hospital-specific wage data from the most recent HCFA hospital wage survey may be used, so that the data can be verified. An individual hospital's wage survey data are for its cost reporting period ending in calendar year 1988. The individual hospital wage data are adjusted to a common point in time, in calendar year 1988, in constructing the wage index. Thus, the average hourly wage for the individual hospital is for its cost reporting period ending in calendar year 1988 (for example, July 1, 1987 through June 30, 1988), whereas the average hourly wage for the geographic area to which the hospital seeks reclassification is for calendar year 1988. The interim final rule was silent with regard to how the hospital-specific

wage survey data should be adjusted to be comparable to the calendar year 1988 hourly wage amount when the hospital's cost reporting period is on other than a calendar year basis. We understand that some hospitals chose to submit calendar year 1988 payroll data in lieu of adjusting their hospital-specific wage survey data to its calendar equivalent in making the occupational mix comparison.

Since the interim final rule did not address this issue, we do not believe it would be appropriate to require on an across-the-board basis that these hospitals reconstruct their hospital-specific wage survey data by occupational category. Therefore, we are providing a limited exception that would allow the MGCRB to consider hospital payroll data based on calendar year 1988 if, in the MGCRB's judgment, the hospital has submitted sufficient documentation to substantiate that it is providing accurate and complete wage data. This exception applies only with respect to reclassification applications based on the occupational mix wage comparison that would be effective for FY 1992. For subsequent reclassification determinations and for wage index comparisons that do not involve occupational mix, only hospital-specific wage survey data may be utilized. Given the limited and temporary nature of this exception, we are not revising the regulation to incorporate the exception.

Under § 412.264(d), the MGCRB has the authority to rule upon the admissibility of evidence, and § 412.264(b) provides that the MGCRB is not limited by the rules of evidence applicable to court procedures. In general, however, we expect that the Board will only consider substantiated data from an official source in making its decisions. Also, in view of the tight timeframes the MGCRB must meet in its decision-making process, it is generally constrained from considering evidence submitted after the filing deadline. However, as explained in section V.B.6 above, we have revised § 412.256(c)(2) to provide that the MGCRB may, for good cause, grant a hospital an extension beyond the filing deadline to complete its application.

Comment: The interim final rule does not address whether a reclassification based on the commuting data would be retroactive to the first Federal fiscal year after the date of the 1990 census, that is, FY 1991.

Response: As specified in section 1886(d)(10)(C)(ii) of the Act, hospitals must submit requests for reclassification not later than the first day of the Federal fiscal year preceding the Federal fiscal year for which the decision will be

effective. (However, as stated above, for reclassifications effective for Federal fiscal year 1992, the filing deadline was extended to November 6, 1990.) Accordingly, all reclassifications granted by the MGCRB become effective on a prospective basis only. Therefore, all reclassifications granted by the MGCRB during a fiscal year will be effective prospectively for discharges occurring on or after October 1 of the following fiscal year even if data from earlier years are used to support the reclassification request.

2. General Reclassification Guidelines

An individual hospital may seek reclassification for purposes of its wage index, standardized amount, or both. The September 6, 1990 interim rule set forth separate guidelines for each situation. A hospital that is reclassified from one area to another area only for purposes of the wage index is not considered urban for any other purpose than its labor market area designation. A hospital seeking reclassification for purposes of its wage index must demonstrate that its wages are comparable to the wages paid in the geographic area to which it requests reclassification.

A hospital that is reclassified only for purposes of its standardized amount is considered urban for all purposes except use of the wage index under 1886(d)(2)(D) of the Act. With respect to a reclassification request for purposes of a hospital's standardized amount, the hospital must demonstrate that its costs per case are more comparable to the amount the hospital would be paid if it were reclassified than the amount it is currently paid.

Except for rural referral centers and sole community hospitals, a hospital must be located in a county that is adjacent to the rural area or urban area to which it seeks redesignation. In addition, any individual hospital seeking reclassification from one area to another must meet one of the following proximity guidelines.

- **Distance:** A rural hospital requesting redesignation to an urban area or a rural area in another State must be located no more than 35 road miles from the border of the area to which it is requesting redesignation. An urban hospital requesting redesignation to another urban area must be located no more than 15 road miles from the border of the urban area to which it is requesting to be redesignated. For this purpose, as defined in § 412.92(c)(1), the term road miles means "the shortest distance in miles measured over improved roads. An improved road for

this purpose is any road that is maintained by local, State, or Federal government entity and which is available for use by the general public."

• *Residence of employees:* A hospital requesting redesignation from one geographic area to another area must demonstrate that 50 percent or more of its employees reside in zip code areas located within the area to which it is requesting to be redesignated.

Comment: The requirement that a hospital must meet both adjacency and mileage criteria is too restrictive. If a hospital meets the mileage criteria, the requirement that the hospital be located in an adjacent area should be waived. In addition, hospitals should be able to qualify for redesignation based on characteristics such as driving time and various demonstrations of comparability to the MSA, such as range of services. The MGCRB should also consider requests that demonstrate that a hospital is not similar to the hospitals located in its immediate area. Finally, what are acceptable means for the verification of road miles for purposes of meeting the mileage criteria? *Response:* There is ample precedent for requiring that hospitals seeking reclassification to a different geographic area be located in a county that is adjacent (that is, contiguous) to that area. This is consistent with the way urban geographic areas are defined by OMB, which considers only adjacent areas in determining which counties are grouped into a given MSA. The adjacency requirement is also consistent with the special provision in section 1886(d)(8)(B) of the Act that allows hospitals located in certain rural counties that are adjacent to more than one MSA to be deemed urban for purposes of the wage index and standardized amounts. Since urban labor market areas are defined in terms of contiguous counties it is appropriate to require that a hospital be located in an area that adjoins the geographic area to which it is requesting reclassification.

The mileage criteria included in the proximity guidelines at § 412.230(b) were established to ensure that a hospital located in an adjacent county is also within a reasonable distance from the area to which it seeks redesignation and, thus, could be expected to compete in the same market area for both its employees and hospital inpatients. In some cases, a county may cover an unusually large area. The mileage criteria prevent these hospitals from reclassifying to areas that are not within their competitive marketplace.

Alternatively, hospitals that do not meet the mileage criteria can demonstrate economic ties to the area in

which they are seeking redesignation under the proximity guideline at § 412.230(b)(2), which requires that at least 50 percent of the hospital's employees reside in the adjacent area. The use of numeric guidelines lends objectivity to the reclassification decision-making process and ensures that hospitals are treated uniformly. The guidelines set forth in the interim final rule were intended to assist hospitals in demonstrating that they do in fact compete with hospitals in another geographic area.

Finally, in order to demonstrate that it meets the guidelines set forth in the regulations, a hospital seeking reclassification must provide enough information to enable the MGCRB to make a reliable determination on the case. An official road map should be sufficient if it clearly shows that the hospital is located within the mileage limit. If the hospital is close to the mileage limit, and a map does not clearly show its location, the hospital may choose to verify the distance through the use of a road test. However, it is up to the MGCRB to determine if the hospital has adequately demonstrated that it meets the requirements for reclassification.

Comment: In the interim final rule, the references for "the necessary geographic relationship" are different in paragraphs (d) and (e) of § 412.230. Section 412.230(d) references § 412.230(b) while § 412.230(e) references § 412.230(a).

Response: We are correcting this omission in this final rule with comment period. Since both the adjacency and proximity guidelines must be met in order to qualify for redesignation (unless the facility is a rural referral center or a sole community hospital), we have revised paragraphs (d) and (e) of § 412.230 to specify that both paragraphs (a) and (b) of § 412.230 must be met to establish the necessary geographic relationship.

Comment: The qualification guideline at § 412.230(b) regarding the residence of employees criteria is too strict. This guideline states that a hospital that does not meet the proximity criteria for mileage may qualify if 50 percent or more of the hospital's employees reside in the area to which the hospital is seeking redesignation.

Response: A significant level of economic integration is necessary for reclassification. In cases where the mileage proximity criteria are met, the limited distance between the provider and the area to which reclassification is requested is sufficient evidence of economic integration. To demonstrate a significant level of economic interaction in cases where the mileage criteria are

not met, there must be convincing evidence of interaction between the hospital and the area to which it is applying. We determined, and continue to believe, that a commuting level of 50 percent or more indicates this significant level of economic interaction with the area to which the hospital is seeking redesignation.

3. Special Access Rule for Rural Referral Centers and Sole Community Hospitals Seeking Reclassification

Section 1886(d)(10)(D)(i)(III) of the Act requires that the guidelines include criteria for considering information provided by a hospital with respect to the effects the hospital's geographic classification has on access to inpatient hospital services for Medicare beneficiaries. Generally, access to care is not an issue except for those areas serviced by rural referral centers (RRCs) and sole community hospitals (SCHs). Accordingly, we provide special access guidelines applicable to RRCs and SCHs at § 412.230(a)(4).

We do not require RRCs or SCHs to be located in counties adjacent to an urban area in order to be reclassified urban since their continued financial viability is necessary in order to preserve access to needed services for Medicare beneficiaries residing in these providers' service areas. Similarly, the proximity requirement does not apply for RRCs and SCHs because of the need to maintain access to tertiary care for Medicare beneficiaries in relatively isolated rural areas. RRCs and SCHs that compete with urban areas for labor, or which experience costs per case comparable to urban hospitals, have the opportunity to qualify for the urban wage index, and, where applicable, the large urban or other urban payment rate.

If an RRC or an SCH can qualify for reclassification on the basis of its wages or costs, then it can apply for reclassification based on the need of the institution to provide access to care for Medicare beneficiaries. The requirement that the hospital be located in a county that is adjacent to an MSA or NECA does not apply. However, if the MGCRB finds that the hospital qualifies for urban redesignation, then it must be redesignated as part of the MSA closest to the hospital.

Comment: Are SCHs and RRCs precluded from applying under the general adjacency and proximity criteria for reclassification in § 412.230(a) (2) and (3)?

Response: The special access provisions in § 412.230(a)(4) are intended to provide a means of reclassification for SCHs and RRCs that

are unable to meet the general adjacency and proximity criteria. SCHs and RRCs may also apply for reclassification under the general adjacency and proximity criteria in § 412.230(a)(2) and (3), in which case they would not be limited to reclassification to the closest urban area, as required under the special access provisions in § 412.230(a)(4).

Comment: Section 412.230(a)(4)(iii) provides for the redesignation of an SCH or an RRC to the closest urban area. However, the definition being used for determining the closest area needs to be changed. Instead of measuring the distance to the closest MSA based on the MSA border, HCFA should measure the distance to the border of the core urbanized area of the MSA as defined by the Bureau of the Census. Section 1886(d)(2)(D) of the Act defines urban areas for the purposes of the prospective payment system as areas "within a Metropolitan Statistical Area * * *". The MSA that is closest by this alternative measurement is the MSA with which the RRC or SCH most closely competes for labor. Further, accurate measures of the closest MSA are difficult to determine, and it is possible that an MSA may be closer in mileage but farther away by travel time, due to the quality of the roads.

Response: MSA borders are defined on county lines, and these are the borders that are recognized in all cases for prospective payment system purposes. To recognize a different set of borders for MGCRB purposes would be inappropriate. We note that areas "within an MSA" constitute all areas within the MSA, and not just the core urbanized area. For applications based on the special access provisions, the MGCRB has the discretion to identify cases where travel time is a more appropriate measure of distance than is mileage, and we foresee circumstances where time would be the appropriate measure. For example, if an RRC is 55 miles from one MSA using a four-lane highway, and 45 miles from a second MSA using a two-lane road, it may well be the case that the more distant MSA is the MSA more appropriate for the facility's reclassification.

4. Cost Guidelines for a Hospital Seeking Reclassification for Purposes of its Standardized Payment Amount.

With respect to costs per case, a hospital qualifies for reclassification for purposes of its standardized amount if it can demonstrate that its costs per case are more comparable to the amount the hospital would be paid if it were reclassified than to the amount it is paid under its current classification.

Accordingly, in order to qualify for reclassification for purposes of its standardized payment amount, § 412.230(d)(2) requires that a hospital demonstrate that its case-mix adjusted cost per discharge is at least equal to its current rate plus 75 percent of the difference between that rate and what it would receive as a redesignated hospital.

In the September 8, 1990 interim final rule, we provided a wage comparison example (55 FR 36761) and a cost comparison example (55 FR 36762). In response to comments received on the interim final rule, we provide a revised cost comparison example below and a revised wage comparison example in section V(B)(5) below regarding wage guidelines.

Comment: The example published at 55 FR 36762 for calculating the standardized amounts for cost comparisons should be clarified. In particular, clarification is needed in the following areas: how to determine cost per discharge, which case-mix index should be used, how to pro-rate the standardized amount to match up with different cost reporting periods, and which wage index value should be used in these calculations.

Response: For the convenience of the reader, we have provided below a revised cost comparison example for determining whether a hospital qualifies for redesignation for purposes of its standardized amount.

The purpose of the cost comparison is to determine the relationship between the hospital's costs per case with the per case payment the hospital would receive with and without redesignation. A difficulty in making the comparison is that the current standardized amounts and payment adjustment factors do not match the period covered by the hospital's most recently filed cost reporting period. To avoid distorting the relationship between the hospital's costs per case and the standardized amount, the hospital-specific adjustment factors (that is, the case-mix index and the disproportionate share patient percentage) and the standardized amount should match the applicable cost reporting period. In addition, the hospital's costs must be reduced to reflect its outlier payments, because the standardized amounts used in the cost comparison do not include outlier payments.

Other payment adjustment factors should be used that will result in the best estimates of comparative payments per case with and without redesignation. The disproportionate share adjustment should be based on the formula that will

be effective during the fiscal year for which redesignation is requested. The wage index value to be used depends on whether the hospital is seeking reclassification based solely on the standardized amount or is also seeking reclassification for purposes of the wage index. If the hospital is seeking reclassification for the wage index as well as the standardized amount, the wage index value applicable to the area to which the hospital is seeking redesignation is applied to the standardized amount calculation both before and after reclassification. Otherwise, the hospital's current wage index value is used.

We believe that requests for reclassification for purposes of the wage index and the standardized amount should be considered together, and that the determination of payments per case with and without redesignation for purposes of the standardized amount should reflect the best estimate of the wage index adjustment factor that will be applicable during the fiscal year. To the extent the wage index value after redesignation already accounts for the hospital's higher costs, those costs should not impact on the determination that reclassification for purposes of the standardized amount is appropriate.

Cost Comparison Example

Hospital A is a 170 bed rural hospital located in De Kalb County, Illinois that is applying to be part of the Chicago, Illinois MSA for purposes of both its wage index value and standardized amount. Hospital A's fiscal year ends 06/30/90.

Medicare costs net of passthroughs (Form 2552, Worksheet D-1, Part II, line 54).....	\$1,753,960
Total Medicare discharges (Form 2552, Worksheet S-3, Column 13, line 8).....	400
Disproportionate share patient percentage.....	.25
Indirect Medical Education (IME) Adjustment Factor.....	.0616
Case Mix Index (CMI) (from applicable Federal Register document).....	1.1000
DRG amount other than Outlier Payments (Form 2552, Schedule E, part A, line 1A).....	\$1,356,879
Outlier Payments (Form 2552, Schedule E, part A, line 1B).....	\$41,807

Step 1—Determine Hospital A's cost per discharge reduced for outliers:

A. Medicare costs net of passthroughs divided by total Medicare discharges = Hospital A's cost per case (\$1,753,960 ÷ 400 = \$4,384.90)

B. Outlier adjustment factor = 1 - (outlier payments divided by DRG amount other than outlier payments) = 0.9692

C. Hospital A's cost per discharge reduced for outliers = Hospital A's cost per case (from

step 1A) × outlier adjustment factor (from step 1B) = \$4,384.90 × 0.9692 = \$4,249.85

Step 2—Determine Hospital A's case-mix adjusted cost per discharge:

Hospital A's cost per discharge reduced for outliers divided by its case-mix index for the applicable cost reporting period (\$4,249.85 ÷ 1.1000 = \$3,863.50)

Since the case-mix index can change from year to year depending upon the service furnished, it is important that the case-mix value correspond to the applicable cost reporting period. To be verifiable, the hospital should use the case-mix index values that are published annually as part of the prospective payment final rule. Hospitals with cost reporting periods other than the Federal fiscal year should prorate the case-mix value to the

applicable cost reporting period. Alternatively, a case-mix index value developed by the intermediary may be used, as it is based on data accumulated from Medicare bills for the cost reporting period. A case-mix index value developed by the provider is not acceptable since it cannot be readily verified.

Step 3—Determine the payment Hospital A would receive as a large urban hospital in the Chicago, Illinois MSA:

Hospital A is a rural hospital whose: Disproportionate share adjustment factor = 0.0; Indirect medical education adjustment factor = .0616

As an urban hospital, Hospital A's disproportionate share adjustment factor = $(0.25 - 0.202) \times 0.70 + 0.0562 = 0.898$

Since four difference standardized amounts from four Federal Register documents apply during the period from July 1, 1989 through June 30, 1990, the standardized amount is prorated.

For purposes of this illustration, we have prorated the standardized amount based on the number of months in the cost reporting period in which the applicable standardized amount was in effect. A provider may wish to submit, or the MGCRB may wish to require, a more accurate proration based on the number of calendar days or Medicare discharges that occurred during the period the applicable standardized amount was in effect.

FEDERAL REGISTER DOCUMENT

Date of FR doc.	Effective date	Period covered	Months in effect
09/30/88	10/01/88	07/01/89-09/30/89	3
09/01/89	10/01/89	10/01/89-12/31/89	3
12/29/89	01/01/90	01/01/90-03/31/90	3
04/20/90	04/01/90	04/01/90-06/30/90	3

Date of FR doc.	Chicago, IL		Rural, IL	
	Labor portion	Non-labor portion	Labor portion	Non-labor portion
09/30/88	2520.39	907.78	2281.73	664.15
09/01/89	2660.91	958.11	2403.67	700.19
12/29/89	2664.24	959.31	2500.49	728.39
04/20/90	2663.61	959.08	2500.26	728.33

Hospital A requested and qualifies for reclassification for purposes of the wage index. Therefore, the Chicago, Illinois wage index value (1.0538) should be used to determine the amount that would be payable.

Per discharge payment rate after reclassification equals the sum of the following:

$[(\text{Labor portion of standardized amount}) \times (\text{Wage index value}) + (\text{Nonlabor portion of standardized amount})] \times (1 + \text{DSH} + \text{IME}) \times (\text{Months in effect}/12)$

For 07/01/89-09/30/89:

$$(\$2,520.39 \times 1.0538 + \$907.78) \times (1 + 0.0898 + 0.0616) \times (3/12) = \$1,025.83$$

For 10/01/89-12/31/89:

$$(\$2,660.91 \times 1.0538 + \$958.11) \times (1 + 0.0898 + 0.0616) \times (3/12) = \$1,082.94$$

For 01/01/90-03/31/90:

$$(\$2,664.24 \times 1.0538 + \$959.31) \times (1 + 0.0898 + 0.0616) \times (3/12) = \$1,084.30$$

For 04/01/90-06/30/90:

$$(\$2,663.61 \times 1.0538 + \$959.08) \times (1 + 0.0898 + 0.0616) \times (3/12) = \$1,084.04$$

Payment Hospital A would receive as part of the Chicago, Illinois MSA = \$4,277.11

Step 4—Determine the payment Hospital A would receive as a rural hospital (after redesignation for purposes of the wage index).

Per discharge payment rate without reclassification for standardized amount equals the sum of the following:

$(\text{Labor portion of standardized amount}) \times (\text{Wage Index Value} + (\text{Nonlabor portion of standardized amount}) \times (1 + \text{DSH} + \text{IME}) \times (\text{Months in effect}/12)$

For 07/01/89-09/30/89:

$$(\$2,281.73 \times 1.0538 + \$664.15) \times (1 + 0.0616) \times (3/12) = \$814.42$$

For 10/01/89-12/31/89:

$$(\$2,403.67 \times 1.0538 + \$700.19) \times (1 + 0.0616) \times (3/12) = \$858.09$$

For 01/01/90-03/31/90:

$$(\$2,500.49 \times 1.0538 + \$728.39) \times (1 + 0.0616) \times (3/12) = \$892.65$$

For 04/01/90-06/30/90:

$$(\$2,500.26 \times 1.0538 + \$728.33) \times (1 + 0.0616) \times (3/12) = \$892.57$$

Payment Hospital A would receive as an Illinois rural hospital = \$3,457.73

Step 5—Determine whether Hospital A qualifies for redesignation as part of the Chicago, IL MSA on the basis of its costs.

To qualify, Hospital A's case-mix adjusted cost per discharge (Step 2) must be equal to its payment rate without reclassification (Step 4) plus 75 percent of the difference between that rate and what it would receive as an urban hospital (Step 3).

$$\text{Rural rate} + [75\% \times (\text{Urban rate} - \text{Rural rate})] \\ \$3,457.73 + [75\% \times (\$4,277.11 - \$3,457.73)] = \$4,072.27$$

Hospital A's case mix adjusted cost per discharge (Step 2) = \$3,863.50
 Hospital A's rural rate plus 75 percent of the difference between that rate and what it would receive as an urban hospital (Step 5) = \$4,072.27

Since the result in Step 2 is less than the result in Step 5, Hospital A does not meet the cost guidelines for purposes of the standardized amount for reclassification as part of the Chicago, Illinois MSA.

Comment: The calculation for the disproportionate share adjustment should be eliminated from the payment computations for urban and rural hospitals because the disproportionate share percentage is an add-on to the prospective payment system rate.

Response: The calculation of the disproportionate share adjustment is needed for an accurate comparison between the hospital's costs per discharge and the per discharge payments it would receive with and without reclassification. The hospital's cost per discharge reflects any impact the hospital's disproportionate share percentage may have on its costs. Since the amount of the disproportionate share adjustment is dependent on the hospital's status as being located in an urban or rural area, it is appropriate to include the disproportionate share adjustment in the comparisons. Otherwise, the impact that reclassification would have on the hospital's payments per discharge would be distorted.

Comment: When a hospital requests a reclassification based solely on the standardized amount, the hospital should use the wage index value for the geographic area in which it is located.

Response: We agree with the commenter. If a hospital is seeking reclassification only for purposes of the standardized amount, the wage index value for the area to which it wants to be reclassified should not be used in the cost comparison because the hospital's payments will not be determined using this wage index value. Only when a hospital is applying for redesignation based on both the standardized amount and the wage index, should the wage index value for the area to which it is requesting reclassification be used in the cost comparison.

Comment: In calculating the standardized amount, should hospitals use total discharges or Medicare discharges?

Response: Since the standardized amounts are based on Medicare discharges, hospitals should use

Medicare discharges and costs in these calculations. Thus, hospitals must use the amount from the Medicare Cost Report Worksheet, Schedule S-3, Column 13, line 8, which represents total Medicare discharges. (See Step 1 of the cost comparison example above.)

Comment: The cost of transfer cases to other prospective payment hospitals should be removed from the calculation for the case-mix adjusted cost per discharge.

Response: As noted above, the number of discharges used in calculating the cost per case calculation comes from the Medicare Cost Report Worksheet, Schedule D-1, Part II, line 55. For cost reporting purposes, a discharge is a formal release of a patient, including transfers. Thus, all transfers count as discharges in calculating the hospital's allowable Medicare cost per discharge. Since a hospital's Medicare cost per discharge represents an average cost, we believe it is appropriate to include all costs and discharges in the computation. This is consistent with the way we compute hospital-specific rates under the prospective payment system. Moreover, any computations adjusting costs and discharges reported on the cost report would not be readily verifiable by the MGCRB.

Comment: A hospital's cost per case should be inflated to match the standardized amounts published for a later period.

Response: When a hospital uses its adjusted cost per discharge to compare the standardized amount under its current classification with that under its requested reclassification, it should use the appropriate standardized rate for the cost reporting period. Thus, there is no need to inflate the cost per case. This methodology allows the decision to be based on actual cost data and avoids the subjectivity and uncertainty inherent in the selection of an appropriate inflation factor.

5. Wage Guidelines for a Hospital Requesting Reclassification for Wage Index Purposes

Under § 412.230(e), a hospital requesting reclassification to an adjacent labor market area for purposes of determining its wage index must demonstrate that its average hourly wage is equal to at least 85 percent of the average hourly wage of hospitals in the labor market area to which it is applying for reclassification. If the hospital's average hourly wage is less than 85 percent of the average hourly wage for the labor market area to which it is requesting reclassification because of a lower occupational mix, the hospital must demonstrate that its average hourly wage weighted for

occupational categories is equal to at least 90 percent of the average hourly wage in the MSA, NECMA or State rural area to which the hospital is requesting to be reclassified. Weighting for occupational categories is accomplished by using data that demonstrates the average occupational mix for the labor market area to which the hospital is requesting redesignation and weighting the hospital's average hourly wage by occupational category based on that information. If the hospital's weighted average hourly wage is equal to or greater than 90 percent of that in the labor market area to which it is requesting reclassification, then the hospital may be reclassified for purposes of its wage index.

Comment: Further clarification is needed on the wage comparison example and occupational mix analysis provided in the September 6, 1990 interim final rule at 55 FR 36761.

Response: The wage comparison example used in the interim final rule was unclear because we used a national average hourly wage that applied to an earlier year and wage survey data base. For clarity, we have revised the labor cost comparison and occupational mix analysis as follows:

Wage Comparison Example

Hospital Y is a rural hospital located in Gratiot County, Michigan that requests reclassification as part of the Lansing, Michigan MSA.

A. Labor Cost Computation

Hospital Y's 1988 adjusted average hourly wage = \$12.05. (from the computer listing supplied upon request from HCFA)

This figure is found in the column entitled "Inflated AVW" and represents the sum of the following:

Total salaries minus excluded salaries plus home office salaries plus fringe benefits times an inflation factor (to bring all cost reporting periods to a common point) divided by the equivalent hours. The inflation factors are shown in step 4 below.

Average hourly wage for Lansing, Michigan = \$14.31 85 percent of \$14.31 = \$12.16 an hour.

Hospital Y cannot demonstrate that its labor costs are 85 percent of the labor costs for Lansing, Michigan. Since Hospital Y cannot meet the labor cost comparison, it submits data to establish that it meets the occupational mix requirement.

B. Occupational Mix Analysis

Step 1—Determine Hourly Wage by Occupational Category

The hospital must determine the categories it will use for the occupational mix calculation. Hospital Y

chooses five occupational category groupings: administrative, registered nurses, other nursing (including licensed practical nurses), therapists and other professionals, and all other personnel. Hospital Y then determines the average hourly wage for each category in its fiscal year for which the wage survey was completed, which for Hospital Y is its cost reporting period ending June 30, 1988.

Category	Salaries	Hours	Average hourly wage
Administrative.....	\$1,860,016	116,251	\$16.00
Registered Nurses.....	1,257,113	100,569	12.50
Other Nursing.....	6,549,906	595,446	11.00
Therapists and Other Profs.	1,094,951	84,227	13.00
All Other Personnel.....	4,548,234	758,039	6.00
Totals.....	15,310,220	1,654,532	

The total salaries and hours match the total salaries and hours reported on Hospital Y's wage survey and reflected in the wage index.

The wage survey data include fringe benefits. If Hospital Y is able to determine fringe benefits by occupational category, the fringe benefit data can be considered with the salary data to determine an hourly amount for wages and fringe benefits combined. Otherwise, an adjustment for fringe benefits is made in Step 3.

Step 2—Determine Occupational Mix-Adjusted Average Hourly Wage

Hospital Y now calculates its occupational mix-adjusted average wage:

Employment category	Hospital wage	MSA occupational mix
Administrative.....	\$16.00 ×	20% = \$3.20
Registered Nurses.....	12.50 ×	10% = 1.25
LPN & other Nurses.....	11.00 ×	30% = 3.30
Therapist and other professionals.....	13.00 ×	25% = 3.25
All other personnel.....	6.00 ×	15% = 0.90
Total.....		11.90

To calculate the MSA occupational mix percentages, the number of hospital employees in the MSA should be determined for each of the occupational categories used in the wage comparison. For this purpose, each part-time employee (PTE) counts as 0.5 full time employee (FTE). Thus, the occupational mix percentage for a given category equals the sum of the number of MSA FTEs in the occupational category plus one-half of the MSA PTEs in the

category divided by the total number of FTEs plus one-half of the PTEs, totalled across all allowable categories.

Step 3—Fringe Benefit Adjustment

Hospital Y cannot determine fringe benefits for each employment category, so it calculates a fringe benefit factor to apply to the occupational mix-adjusted average wage as follows:

Fringe benefit factor equals fringe benefits reported on wage survey divided by salaries reported on wage survey.

$$\$1,828,959 / \$15,310,220 = 0.11946$$

The average hourly wage, including fringe benefits, adjusted for occupational mix, will then be $(1 + \text{fringe benefit factor}) \times \text{average hourly wage, adjusted for occupational mix}$.

Occupational Mix Adjusted Average Hourly Wage, Including Fringe Benefits = \$13.32

$$\$11.90 \times 1.11946 = \$13.32$$

Step 4—Inflation Factor Adjustment

Hospital A must determine its inflation factor adjustment by determining the inflation factor applicable to the midpoint of the cost reporting period from the table below. Hospital A then multiplies the applicable inflation factor by the Occupational Mix Adjusted Average Hourly Wage Adjustment Amount (including fringe benefits) derived in Step 3.

Cost reporting period is 7/1/87 through 6/30/88

Midpoint of cost reporting period is 12/31/87

Applicable inflation factor (from table below) = 1.033150521

Occupational Mix Adjusted Average Hourly Wage Adjustment Amount (from Step 3) = \$13.32

Inflated Occupational Mix Adjusted Average Hourly Wage = \$13.76

$$\$13.32 \times 1.033150521 = \$13.76$$

Inflation Factors for the 1988 Area Wage Index

If the Midpoint of the Cost Reporting Period is:

After	Before	Adjustment factor
02/14/87.....	03/15/87	1.090861457
03/14/87.....	04/15/87	1.084948184
04/14/87.....	05/15/87	1.079069666
05/14/87.....	06/15/87	1.073217629
06/14/87.....	07/15/87	1.067400000
07/14/87.....	08/15/87	1.061613906
08/14/87.....	09/15/87	1.055859175
09/14/87.....	10/15/87	1.050135641
10/14/87.....	11/15/87	1.044431332
11/14/87.....	12/15/87	1.038781481
12/14/87.....	01/15/88	1.033150521
01/14/88.....	02/15/88	1.027550084
02/14/88.....	03/15/88	1.021980006
03/14/88.....	04/15/88	1.016440122

After	Before	Adjustment factor
04/14/88.....	05/15/88	1.010930268
05/14/88.....	06/15/88	1.005450281
06/14/88.....	07/15/88	1.000000000
07/14/88.....	08/15/88	0.994549719
08/14/88.....	09/15/88	0.989069732
09/14/88.....	10/15/88	0.983559878
10/14/88.....	11/15/88	0.978019994
11/14/88.....	12/15/88	0.972449916
12/14/88.....	01/15/89	0.966849479

Step 5—Wage Comparison

If Hospital Y's occupational mix-adjusted average hourly wage is at least 90 percent of the MSA's average hourly wage, the hospital meets the wage guideline for reclassification.

Hospital Y's average hourly wage adjusted for occupational mix = \$13.76.

Hospital Y's average hourly rate adjusted for occupational mix is at least 90 percent of the average hourly wage for Lansing, Michigan. (90% of \$14.31 = \$12.88)

Because \$13.76 is greater than \$12.88, Hospital Y meets the required wage guideline.

Comment: In performing the occupational mix calculation, further clarification is needed on the following issues:

- Which categories on the AHA survey should be used.
- Which providers covered by the AHA survey data should be used.
- Which hospital-specific data should be used.
- How to calculate the average wage for each category.
- How to deal with fringe benefits if the hospital could not break out fringe benefits separately by job classification.

Response: The AHA survey data cover 35 occupational categories, 32 of which must be used. The categories not to be used are the following: physicians, dentists, and psychologists. This is because the salary costs for these categories are generally not payable under Medicare part A.

The remaining categories must be used even if the applicant hospital does not have any employees in those categories. (The categories should, of course, be grouped with occupations in which the hospital does have employees). For example, the MSA may have categories for three types of therapists, such as speech, physical, and occupational, whereas the hospital only has physical and speech therapists. In this situation all therapists could be grouped as one occupational category.

Although one commenter recommended that HCFA set required groupings of occupational categories, we believe that no single grouping is clearly

preferable, and the MGCRB has the discretion to determine whether the groupings of occupational categories by the hospital are appropriate. The groupings in the example above are for illustrative purposes and are not intended as recommended groupings. Groupings can be either more general (as in the wage comparison example in the September 6, 1990 interim final rule at 55 FR 36761) or more specific (up to the 32 allowable categories in the AHA data base), subject to the MGCRB's approval. Part-time employees in the MSA should be counted as half-time employees in determining the proportions of each occupational group among MSA employees. Only acute care hospitals should be included in the MSA occupational mix. These are identified by a "0" in the third digit of their Medicare provider number.

The hospital data should match the data used to fill out the HCFA wage survey for the hospitals fiscal year that ended in 1988, and not calendar year 1988, so that the MGCRB can compare the data used to those appearing in the hospital's wage survey. However, as indicated in response to an earlier comment on data requirements, the use of calendar year 1988 payroll data is acceptable for reclassification determinations that would be effective for FY 1992 if the MGCRB concludes that the hospital has submitted sufficient documentation to substantiate that it is providing accurate and complete wage data.

The total employee wages, fringe benefits, and hours for all occupational groupings for the hospital must equal the amounts found on the 1988 survey. In other words, each employee who was counted in the 1988 survey, and only those employees, should appear in one of the occupational groupings. This is necessary in order to maintain comparability to the average hourly wage of the MSA, which is computed using the wage surveys of the prospective payment hospitals in the MSA.

If the hospital cannot determine fringe benefits by class of employees, the hospital may use a fringe benefit factor, determined by dividing fringe benefits as reported on the survey into total salaries as reported on the survey (excluding contract labor and excluded salaries, but including home office salaries if appropriate). When the provider has a fiscal year other than calendar year 1988, it should apply an inflation factor (as provided above) to the average wage, adjusted for occupational mix, in order to ensure

comparability with the MSA average wage.

Comment: Clarification is needed regarding how wage data corrections should be taken into account.

Response: We anticipate that the MGCRB will use the latest updated survey data, including midyear corrections, to determine reclassification outcomes. As midyear corrections are made to the survey data, the corrected data will be forwarded to the MGCRB for its consideration. We believe it is appropriate that the MGCRB use the latest corrected data in making its determinations, since these data are currently used for payment purposes. Moreover, we note that a number of wage index applications submitted by hospitals are based on corrected data. If the MGCRB relied on the wage data in effect at the time the reclassification request was filed, rather than using the latest available data in making its determinations, these hospitals would not be able to benefit from the use of the corrected hospital specific data.

We also want to note that, in applying for reclassification for wage index purposes for FY 1993 and thereafter, it is essential that hospitals contact HCFA to request the average hourly wage data that are appropriate for use in reclassification requests. Using the latest available average hourly wage data is necessary for hospitals to determine whether they qualify for reclassification for purposes of the wage index. In addition, unlike for FY 1992 applications, hospitals should not rely on the published wage index values to compute the average hourly wage for the area to which they are seeking reclassification. This is because the published wage index values will reflect geographic reclassifications approved under section 1886(d)(10) of the Act for each fiscal year and thus may not reflect the actual labor market for a given area for the upcoming fiscal year.

Unlike the geographic reclassifications granted under section 1886(d)(8) of the Act that are permanent, the geographic reclassifications granted by the MGCRB are temporary and are generally limited to a 1-year period. Considering such reclassifications in determining whether a hospital qualifies for a wage index reclassification in subsequent periods would not be appropriate because it would invalidate the process of comparing the wages of a hospital applying for reclassification with the wages of the hospitals in the area to which the hospital is requesting to be reclassified. For example, consider the case of a hospital that was reclassified to a given area for FY 1992

that wishes to reapply for reclassification to that same area for FY 1993. A comparison of the hospital's wage data with the wage data of all hospitals (including reclassified hospitals) in the area in FY 1992 would result in the hospital's wage data being compared in part with its own wage data, rather than strictly with the wage data of hospitals that originally made up the area. The anomalous effects of basing reclassification determinations on such comparisons would be particularly evident in smaller MSAs that include only one or two hospitals or in MSAs in which most hospitals were reclassified to another area for FY 1992.

Another possibility is that all the hospitals originally in an MSA would be granted reclassification to other areas for FY 1992. Thus, the area would contain either no hospitals in FY 1992 or only hospitals that were reclassified to the area. If there were no hospitals reclassified to the area, using reclassified hospitals in making wage comparisons would be impossible because there would be neither a published wage index value for FY 1992 nor any comparative wage data that could be used for making a reclassification determination if in the subsequent year other hospitals would seek reclassification to that MSA. If the area contained only reclassified hospitals, hospitals reapplying for reclassification in the subsequent year would conceivably be compared solely to themselves.

Therefore, in making wage comparisons for purposes of meeting the guidelines for reclassification for wage index purposes, hospitals must use the wage survey data for a labor market area absent any reclassifications granted by the MGCRB. As noted in a response to comment in section V.A.6 of this preamble, these data are available from HCFA upon request.

Comment: HCFA should lower the criterion requiring that the hospital's average hourly wage be equal to 85 percent of the average hourly wage in the adjacent area to 80 percent in order to permit a group of hospitals to qualify for reclassification for purposes of their wage index. In addition, language in the Conference committee report accompanying Public Law 101-508 suggested that the Secretary consider lowering the 85 percent wage threshold to 70 percent. (H.R. Rep. No. 964, 101st Cong., 2nd Sess. 715 (1990).) Another option would be to replace the 85 percent threshold with a statistical measure such as two standard deviations or a specified coefficient of variation.

Response: We continue to believe that a minimum 85 percent threshold for determining comparability among adjacent areas is appropriate. We note that a significant proportion of the over 1,000 complete applications submitted to the MGCRB requested reclassified based on this guideline, which indicates that the threshold is sufficiently low. While reducing the qualifying criteria would permit more hospitals to qualify for a higher wage index value, it would also result in diminishing the degree of wage comparability among hospitals in a given labor market area. That is, we believe that a hospital whose average hourly wage is more than 15 percent below the adjacent labor market area does not incur wage costs comparable to that area and, therefore, does not warrant reclassification.

In any system using a numeric threshold, there will be some hospitals who fall just short of meeting the threshold. An arbitrary reduction in the wage criterion simply to accommodate a specific group of hospitals is not appropriate. Moreover, given the requirement that the geographic redesignations granted by the MGCRB be budget neutral with respect to aggregate payments to hospitals, it would be inequitable to lower the 85 percent criterion to reclassify, at the expense of urban hospitals, additional hospitals that do not have comparable wages.

Finally, the use of two standard deviations or a specified coefficient of variation would not produce a consistent guideline that can be applied to all hospitals seeking to reclassify to alternative labor market areas. The 85 percent threshold provides a constant measure against which all hospitals can compare themselves. In addition, we structured the guidelines so that hospitals can apply for redesignation without necessarily relying on consultants. Using a complicated statistical procedure to achieve reclassification defeats this purpose.

Comment: The criteria for use of another area's wage index value at § 412.230(e) should be revised to take into consideration a hospital's contract labor costs. One hospital noted that, due to the scarcity of specialized labor in the area, its contract labor costs constitute more than 15 percent of its total labor costs. Exclusion of these costs results in a distorted view of the actual labor costs of rural hospitals. Further, the historical wage survey data may not reflect current market conditions.

Response: Including contract labor costs in a hospital's average hourly wage is inappropriate because it would provide a distorted comparison with the

wages for the MSA, which do not reflect these costs. HCFA did not include contract labor salaries and hours in the final 1988 wage survey data because these data were not uniformly available. We previously addressed this issue in the September 4, 1990 prospective payment system FY 1991 final rule (55 FR 36038). At that time, we had received a number of comments both supporting and opposing the inclusion of contract labor data. We decided to exclude contract labor data based on our analysis that showed that only 50 percent of hospitals reported contract services and at least 11 percent of those not reporting these services indicated that it was because they could not accurately determine contract hours. In some cases, hospitals included services with a high average hourly wage, such as CRNAs and physicians, which are billed under Part B. Therefore, because of the inconsistency noted in the reporting of contract services on the 1988 HCFA wage survey, we did not include those data in the average hourly wage used to construct the wage index. With respect to the use of historical wage data, it is essential to use standard data for the same time period so that the wage comparisons can appropriately reflect labor costs for the same point in time. In addition, any data for a year other than 1988 would not be edited or otherwise verified.

Moreover, the 1988 wage data represent the latest available data at the time the survey was conducted. As such, there is no way to avoid a time lag in the data used to construct the wage index. However, once the wage index updates are done on an annual basis, beginning in FY 1994, changes in wage levels across areas will be reflected in the wage index more timely.

We are in the process of developing more detailed instructions on the reporting of contract labor costs as part of the Medicare cost report, which may allow the inclusion of contract labor data in future wage index updates. Until contract labor costs are incorporated into the hospital wage index, we believe that these costs cannot be reflected in the average hourly wages of individual hospitals for purposes of their reclassification requests.

6. Guidelines for a Joint Application for All Hospitals in a Rural County Seeking Urban Reclassification

In order for all the Medicare prospective payment system hospitals located in a rural county to be reclassified as part of an adjacent MSA or NECMA, all of the Medicare prospective payment system hospitals in the county must apply jointly to the

MCCRB. If all hospitals in a county do not wish to be part of a group application for redesignation, then each of these hospitals seeking redesignation must do so using the individual hospital guidelines in § 412.230.

The county in which the hospitals are located must first meet one of the census guidelines that follow:

a. *Bureau of the Census Data—1980:* If the county failed to qualify for urban classification because it did not meet the OMB standards that were published in the Federal Register on January 3, 1980 (45 FR 956) or because it did not meet the standards under section 1886(d)(8)(B) of the Act, with respect to hospitals in certain rural counties adjacent to urban areas, it must be able to demonstrate that based on updated Bureau of the Census data, estimates, or projections, it now meets the standards.

b. *Bureau of the Census Data—1990:* If the county would qualify for reclassification as part of a MSA or NECMA based on the revised standards issued by OMB for the 1990 Census (55 FR 12154, March 31, 1990), those standards may be used to qualify for redesignation. The Appendix to the interim final rule (55 FR 36770) included the part of those standards that is relevant to this issue.

Finally, all the hospitals in the county must meet the wage guidelines set forth in § 412.232(c). That is, the aggregate average hourly wage of all the hospitals in the county must be at least 85 percent of the average hospital hourly wage, or 90 percent of the occupationally adjusted hourly wage, in the MSA or NECMA to which the hospitals in the county seek reclassification. The wage comparison must be based on HCFA wage survey data.

Comment: In cases where not all the hospitals in a county wish to seek reclassification, hospitals that do wish to request reclassification should be permitted to do so as a group. Alternatively, all hospitals in a county that meet the proximity guidelines should be allowed to file for redesignation as a group.

Response: Given the potential impact a county-wide reclassification could have on certain hospitals (such as Medicare-dependent small, rural hospitals that would lose their rural status), we believe it is appropriate to require that all hospitals in the county apply as a group. For those situations where a group application based on county-specific criteria may not be viable, we have provided an alternative process by which individual hospitals may seek reclassification based on hospital-specific criteria. This process

adequately recognizes those situations where individual hospitals that demonstrate close economic ties to adjacent areas may be reclassified even though the county in which they are located may not meet the criteria that would permit a group reclassification.

With respect to group applications for those hospitals in a county that meet the proximity guidelines, we believe that each hospital should demonstrate that it also meets the other criteria for redesignation. Otherwise, reclassification requests by select groups of hospitals could allow hospitals that do not qualify for redesignation to "piggyback" on qualified hospitals.

Comment: The effect the MGRB provisions have on the criteria for a county to be designated as urban under section 1886(d)(8)(B) of the Act should be clarified. These counties are designated as urban if they are adjacent to one or more urban areas and would otherwise be considered part of an urban area, under the standards for designating MSAs and NECMAS, but for the fact that the county does not meet the OMB standard relating to the commuting rate of workers between the rural county and the central county or counties of any single adjacent MSA or NECMA. Will these counties have to apply for urban designation once 1990 Census data become available, or will HCFA designate them?

Response: At HCFA's request, OMB will identify all qualifying counties as soon as it receives final commuting data for the 1990 census from the Bureau of the Census. Urban designations under section 1886(d)(8)(B) of the Act will automatically take effect on October 1 following the date of the revised MSA designations, which are expected to be announced by OMB in June 1992. Therefore, it is not necessary for hospitals to apply for urban designation under this provision.

7. Guidelines for a Joint Application for All Hospitals in an Urban County Seeking Reclassification to Another Urban Area

As discussed in the following comment and response, this final rule with comment period sets forth at § 412.234 criteria for all hospitals in an urban county applying for redesignation to another urban area. These guidelines will be effective for applications filed October 1, 1991 with respect to reclassifications that would be effective in FY 1993.

Comment: The interim final rule specified criteria for group redesignations of all hospitals in a rural county to an adjacent urban area. However, it did not provide for all

hospitals in an urban county to be reclassified as a group to another urban area. Since hospitals in urban counties are essentially in the same situation as hospitals in rural counties, they should be allowed to apply as a group for redesignation to another urban area. Also, the Conference Committee report accompanying Public Law 101-508 demonstrates Congressional intent that the Secretary establish guidelines for joint applications by urban hospitals classified as other urban to seek reclassification to a large urban area. (H.R. Rep. No. 964, 101st Cong., 2nd Sess. 715 (1990).)

Response: In developing the guidelines to be used by the MGRB in making its determinations, we specifically limited group applications to cases where county-specific population data related to the OMB standards for designating MSAs could be considered. However, given the explicit language included in the Conference Committee report clarifying Congressional intent in this regard, we are adding a new § 412.234 to provide the following guidelines under which all hospitals in an urban county may seek reclassification to another urban area.

Guidelines for a Joint Application for All Hospitals in an Urban County Seeking Reclassification to Another Urban Area.

1. All hospitals in the urban county must apply for redesignation as a group.
2. The urban county in which the hospitals are located must be part of the Consolidated Metropolitan Statistical Area (CMSA) that includes the urban area to which the hospitals are seeking redesignation. In the case of NECMAS, the urban county would be considered part of a consolidated urban area under section 5 of the OMB standards for designating CMSAs published in the January 3, 1980 Federal Register (45 FR 956).

We believe that hospitals seeking classification to another area must demonstrate an economic connection to the area to which reclassification is requested. The CMSA requirement is an objective standard that can be used to measure the economic relationship between an urban county seeking redesignation and the other urban area. The CMSA definition (at 45 FR 960) involves various characteristics of the MSAs that are part of a CMSA, including commuting data, urbanization, and total population. The CMSA designation differentiates between adjacent MSAs that are not closely tied economically and adjacent MSAs that have a close economic relationship with each other.

3. **Wage guideline:** The aggregate average hourly wage of all hospitals in the county must be at least 85 percent of the average hospital hourly wage, or 90 percent of the occupationally adjusted hourly wage, in the MSA or NECMA to which the hospitals in the county seek reclassification. The wage comparison must be based on HCFA wage survey data.

4. **Cost guideline:** On average, the case-mix adjusted cost per case reduced for outliers for all hospitals seeking reclassification must at least equal the payment each hospital currently receives plus 75 percent of the difference between that amount and the amount it would receive if reclassified.

To determine if the cost guideline is met, an individual cost threshold is calculated for each hospital requesting reclassification. The threshold equals the amount the hospital would receive under its current classification plus 75 percent of the difference between that amount and the amount it would receive if reclassified. The ratio of each hospital's cost threshold to its case-mix adjusted cost per case, reduced for outliers (from the most recently filed cost report), is then calculated. These ratios are then weighted by the hospital's share of the group's Medicare discharges. These weighted ratios are added together, and the total must be at least one.

Discharge weighting ensures that the cost of each Medicare case in the hospitals requesting redesignation is counted equally. Simple averaging by the number of hospitals would result in cases in hospitals with more than the average number of Medicare discharges being under-counted and cases in hospitals with fewer than average Medicare discharges being over-counted.

The ratios of payments to costs are used because the hospitals requesting reclassification have different relationships between their costs per case and payments per case. The appropriate test is whether or not, on average, the hospitals meet the cost guidelines rather than whether aggregate payments equal an aggregate cost threshold. When determining the current payment and the payment if reclassified, the standardized amounts may have to be prorated as in the cost comparison example for an individual hospital. The disproportionate share patient percentage from the most recently filed cost report is used, but the disproportionate share payment is calculated using the formula applicable to the Federal fiscal year for which redesignation is requested. The indirect

medical education adjustment is calculated in similar fashion.

Urban to Urban Group Reclassification Example

There are only two prospective payment hospitals (Hospital A and Hospital B) in County Z, an other urban county. Both hospitals apply for reclassification to MSA Q, which is a large urban area.

Step 1—Each hospital calculates its case-mix adjusted cost per case, reduced for outliers (see Step 1 and 2 of Cost comparison example above), and its share of the total discharges of the two hospitals.

Case-mix adjusted cost per case, reduced for outliers	Percentage of total cases in both hospitals
Hospital A: \$3,886.54	40 percent
Hospital B: \$3,540.36	60 percent

Step 2—Determine the ratio of cost to payment threshold for each hospital.

In order to determine the ratio, the following must be determined: the payment hospitals A and B currently receive and the payments they would receive if they are reclassified, using each hospital's most recently filed cost report and the disproportionate share formula and the indirect medical education formula appropriate for FY 1992, the year for which reclassification is requested. (See Step 3 of Cost comparison example for prorating standardized amount based on a hospital's cost reporting period).

Prorated standard payment per case = Prorated standardized amount \times (1 + IME adjustment factor + DSH adjustment factor)

The threshold level for each hospital = Current standard payment per case + $[0.75 \times (\text{Standard payment per case if reclassified} - \text{current standard payment per case})]$

A. Determine ratio of cost to payment threshold for Hospital A.

1. Determine prorated standard payments, before and after reclassification.

Hospital A's prorated standard amount before reclassification (using current wage index value) = \$3,356.55

Hospital A's prorated standard amount if reclassified (calculated using MSA Q's wage index values) = \$3,442.41

Hospital A's disproportionate share patient percentage = 0.302

Hospital A's disproportionate share adjustment factor, using FY 1993 payment formula = $0.7 \times (0.302 - 0.202) + 0.0562 = 0.1262$

Hospital A's IME adjustment factor = 0.0616

Hospital A's prorated standard payment per case before reclassification = $\$3,356.55 \times (1 + 0.1262 + 0.0616) = \$3,986.91$

Hospital A's prorated standard payment per case if reclassified = $\$3,442.41 \times (1 + 0.1262 + 0.0616) = \$4,088.89$

2. Determine threshold level for hospital A.

Threshold for Hospital A

A = $\$3,986.91 + 0.75 \times (\$4,088.89 - \$3,986.91) = \$4,063.40$

3. Determine ratio of cost to threshold level for Hospital A.

Hospital A's case mix-adjusted cost per case reduced for outliers = \$3,886.54

Threshold for Hospital A = \$4,063.40

Ratio for Hospital A = $\$3,886.54 / \$4,063.40 = 0.9565$

B. Determine the ratio of cost to payment threshold for Hospital B.

1. Determine the prorated standard payments before and after reclassification.

Hospital B's prorated standard amount before reclassification (using current wage index value) = \$3,361.95

Hospital B's prorated standard amount if reclassified (using MSA Q's wage index values) = \$3,452.75

Hospital B's disproportionate share patient percentage = 0.045

Hospital B's disproportionate share adjustment factor = 0.0

Hospital B's IME adjustment factor = 0.0

Hospital B's prorated standard payment per case before reclassification = \$3,361.95

Hospital B's prorated standard payment per case if reclassified = \$3,452.75

2. Determine threshold level for Hospital B.

Threshold for Hospital B

B = $\$3,361.95 + 0.75 \times (\$3,452.75 - \$3,361.95) = \$3,430.05$

3. Determine ratio of cost to threshold level for Hospital B.

Hospital B's case mix-adjusted cost per case reduced for outliers = \$3,540.36

Threshold for Hospital B = \$3,430.05

Ratio for Hospital B = $\$3,540.36 / \$3,430.05 = 1.0322$

Step 3—Determine whether the hospitals in County Z qualify to be reclassified as part of MSA Q on the basis of cost. The discharge weighted ratio of cost to threshold level for an urban hospital must be at least one.

Hospital A's ratio = 0.9565

Hospital A's share of discharges = 40%

Hospital B's ratio = 1.0322

Hospital B's share of discharges = 60%

Discharge-weighted ratio = $(0.9565 \times 0.40) + (1.0322 \times 0.60) = 1.0019$

The hospitals in County Z meet the cost guidelines because their discharge-weighted ratio of cost to payment is greater than one. If the hospitals in County Z also meet the required wage guideline, they would qualify for reclassification to MSA Q.

8. Alternative Guidelines Applicable to Hospital Located in New England County Metropolitan Areas (NECMAS)

These guidelines (at § 412.236) apply only to urban hospitals in New England whose designation is affected by the use of NECMAs to define urban areas, in lieu of MSAs. An individual hospital located in a NECMA may also qualify for redesignation based on the criteria contained in § 412.230.

a. *Guidelines Applicable to Individual NECMA Hospitals.* A hospital currently classified as urban due to its location in a NECMA, may be redesignated as part of another NECMA if it meets the following criterion:

The hospital demonstrates that it would have been classified in a different urban area under the criteria for designating MSAs in New England. For example, part of Bristol County was included in the Boston, Massachusetts MSA. However, under the criteria establishing NECMA boundaries, this area was included in a separate NECMA (that is, the New Bedford-Fall River-Attleboro Massachusetts NECMA). Under this guideline, a hospital located in the section of Bristol County that is included in the Boston MSA may qualify for inclusion in the Boston NECMA.

b. *Guidelines Applicable to All Hospitals Within a NECMA.* All hospitals in a NECMA may qualify for redesignation to another NECMA either by meeting the criteria for group reclassification from one urban area to another urban area at § 412.234 or by meeting the following two criteria:

i. All hospitals in the NECMA apply for redesignation as a group.

ii. The hospitals can show that the NECMA to which they are designated would be combined as part of the NECMA to which they seek redesignation if the criteria for combining NECMAs were the same as the criteria used for combining MSAs. It should be noted that combining MSAs should not be confused with consolidating MSAs. We do not recognize Consolidated MSAs (CMSAs) as a single urban area for purposes of classifying hospitals under the prospective payment system.

These criteria apply regardless of whether the hospitals pay wages comparable to hospitals located in the NECMA to which the hospitals seek redesignation.

The basis for these criteria is section 6 of the Office of Management and Budget Standards for Defining Metropolitan Statistical Areas published on January 3, 1980 (45 FR 960). Section 6 states that

"two adjacent MSAs not included in a consolidation by the above criteria (in section 5) will be combined as a single MSA if:

A. Their largest central cities are within 25 miles of one another, or their urbanized areas are contiguous; and

B. There is definite evidence that the two areas are closely integrated with each other economically and socially * * *; and

C. Local opinion in both areas supports the combination."

Definite evidence that the two areas are closely integrated with each other economically and socially is demonstrated by the commuting and urbanized area criteria, as stated in section 5 of the OMB standards (45 FR 960):

The commuting interchange between the two metropolitan statistical areas is equal to:

(1) At least 15 percent of the employed workers residing in the smaller metropolitan statistical area, or

(2) At least 10 percent of the employed workers in the smaller metropolitan statistical area, and

a. The urbanized area of a central city of one metropolitan statistical area is contiguous with the urbanized area of a central city of the other metropolitan statistical area, or

b. A central city in one metropolitan statistical area is included in the same urbanized area as a central city in the other metropolitan statistical area.

For purposes of these guidelines, the criterion involving local opinion is not considered with respect to NECMAs.

Section 14.C of the OMB standards is explicit in stating that section 6 does not apply in New England (45 FR 961). These guidelines are intended to provide that hospitals that are located in NECMAs that would qualify for combination based on standards applicable outside of New England may qualify for this redesignation.

Comment: Hospitals located in a NECMA should be permitted reclassification to another NECMA based on the OMB standards for designating CMSAs (Section 5—Consolidating Adjacent Metropolitan Statistical Areas (45 FR 960; January 3, 1980)) and should not be limited to qualifying under the OMB standards for combining MSAs (Section 6—Combining Adjacent Metropolitan Statistical Areas (45 FR 960; January 3, 1980)).

Response: The September 6, 1990 interim final rule clearly states that CMSAs will not be recognized for classification purposes. This issue was previously addressed in the September 30, 1988, final rule (53 FR 38498) in response to a public comment.

Under the prospective payment system, we have never recognized CMSAs for purposes of defining urban areas. CMSAs are made up of two or more Primary Metropolitan Statistical Areas (PMSAs). A PMSA is recognized as a separate urban area because it demonstrates very strong internal economic and social links in addition to its ties with another portion of a CMSA. In defining urban areas under the prospective payment system, we recognize MSAs and PMSAs only. The criteria for reclassifying hospitals to another NECMA are intended to afford these hospitals the same treatment as they would have received under the MSA definitions. Therefore, since hospitals located in PMSAs cannot be reclassified based on the CMSA designations, we are applying the same restrictions with respect to the NECMA designations.

However, as discussed in section V.B.7 above, we are establishing guidelines whereby all hospitals located in an urban county may seek reclassification to another urban area that is part of the same CMSA. In addition to meeting the cost and wage criteria under § 412.234, hospitals located in an urban county that is part of a NECMA may qualify for reclassification under the provision of § 412.236 based on the OMB standards for designating CMSAs. The guidelines set forth in § 412.234 will be effective for applications to be considered by the MGCRB during Federal FY 1992 for reclassification beginning October 1, 1993.

9. Effect of Decisions of the MGCRB on Payment to Hospitals

Hospitals that are reclassified only for wage index purposes are not considered urban for any other purpose other than the labor market area (for example, the disproportionate share hospital formula). Hospitals that are reclassified only for purposes of the standardized payment amounts are considered urban for all purposes under section 1886(d)(2)(D) of the Act, except for use of the wage index.

With respect to the wage index, section 1886(d)(8)(C) of the Act did not specify prior to the enactment of Public Law 101-508 how reclassifications of individual hospitals were to be treated. We stated in the interim final rule that we would continue to evaluate this issue and that in the FY 1992 proposed prospective payment system update, we would propose a methodology to address the application of the wage index where not all hospitals in a county or MSA have been reclassified.

Subsequently, section 4002(h)(1)(A) of Public Law 101-508 amended section 1886(d)(8)(C) of the Act to provide that for purposes of the wage index, all hospitals that are granted reclassification are to be grouped together based on the MSA to which they have been reclassified. The effect of the reclassification on the wage index value of the affected areas depends on the hypothetical impact the wage data for the reclassified hospitals would have on the wage index value of the area to which they have been reclassified as explained below:

a. *Impact on Wage Index of One Percentage Point or Less.* If the wage data for the reclassified hospitals would reduce the wage index for the MSA or the rural area to which the hospitals are reclassified by one percentage point or less, the reclassified hospitals are subject to the MSA or rural wage index computed exclusive of the reclassified hospitals. If the wage data for the reclassified hospitals would increase the wage index for the MSA or the rural area to which the hospitals are reclassified, the wage data for the reclassified hospitals will be included in the computation of the MSA or rural wage index.

b. *Impact on Wage Index of More Than One Percentage Point.* If the wage data for the reclassified hospitals would reduce the wage index for the MSA or rural area to which the hospitals are reclassified by more than one percentage point, the hospitals that are reclassified are subject to the wage index value of the MSA or rural area that results from including the wage data of the reclassified hospitals. However, the wage index for the reclassified hospitals cannot be less than the wage index value for the rural areas of the State in which the hospitals are located.

Rural areas whose wage index values would be reduced by excluding the data for reclassified hospitals will continue to have their wage index calculated as if no reclassification had occurred. Finally, section 1886(d)(8)(D) of the Act requires that the effect of decisions of the MGCRB be budget neutral. That section also requires that a proportional adjustment to the standardized amount for urban hospitals be made to ensure that total aggregate payments made in the prospective payment system be neither greater than nor less than aggregate payments that would otherwise be made. In addition, that section requires that aggregate payments to those rural hospitals not affected by this provision remain constant.

Comment: Further clarification is needed on how the wage index will be constructed once all reclassification requests have been decided by the MGCRB. One suggestion was that since a hospital is seeking reclassification based on comparability to an adjacent area, it should be granted the wage index value applicable to that area without any adjustment. Another commenter suggested that in situations where a hospital qualifies for reclassification to more than one area, HCFA allow redesignation to the area that will result in the highest wage index for the hospital. Finally, a commenter asked if a hospital has the option to withdraw from its approved reclassification if the adjusted wage index for the new area turns out to be lower than expected.

Response: The way in which the wage index is applied to redesignated hospitals has been set forth by Congress under section 1886(d)(8)(C) of the Act as amended by section 4002(h)(1)(A) of Public Law 101-508. All hospitals that are granted redesignation are grouped together based on the area to which they have been redesignated. The redesignated hospitals' wage index value is determined by calculating the impact that these hospitals have on the wage index of the MSA or rural area to which they are being reclassified. If the impact of including the reclassified hospitals reduces the wage index by one percent or more, the redesignated hospitals receive a combined wage index value determined by using all the hospitals located in the MSA or rural area and the redesignated hospitals. If the reclassifications result in a reduction in the wage index of less than one percent, the redesignated hospitals will receive the MSA or rural area wage index value without including the redesignated hospitals in that area's wage index value. In addition, the revised wage index value is never less than the rural wage index value for the State in which the reclassified hospitals are located.

In the September 6, 1990 interim final rule, we indicated that the law was silent with respect to the treatment of the wage index value for individual hospitals granted reclassification by the MGCRB and that we would evaluate this issue. This issue has now been clarified by section 4002(h)(1)(A) of Public Law 101-508.

When a hospital submits an application for geographic reclassification, it describes in detail why, and to what area, it believes it should be redesignated. The MGCRB must evaluate the application and

decide if the hospital has met the relevant criteria for that particular geographic classification. The MGCRB has no duty to look beyond an application and decide that a more favorable redesignation is supportable. We note that the wage index that will be applicable to the hospital after reclassification cannot be established until the impact of all reclassifications to that geographic area is determined. Redesignated hospitals may not always receive the MSA wage index value without an adjustment. Thus, it is appropriate for the hospital to be responsible for determining to which area it wishes to be reclassified when it qualifies for reclassification to more than one area.

Because hospitals did not know how the wage index value would be computed for redesignated hospitals at the time they submitted applications to the MGCRB for Federal fiscal year 1992 reclassifications, we are allowing hospitals to withdraw their applications even if an MGCRB decision has already been made. A request for the withdrawal of an application after an MGCRB decision will be permitted only for a Federal fiscal year 1992 application, provided that the request for withdrawal is received by the MGCRB within 60 days of publication of this final rule with comment. However, a hospital cannot request a different reclassification to an alternate area within the same Federal fiscal year. A hospital that wishes to be redesignated to an alternative area will have to submit a new application to the MGCRB for the following Federal fiscal year.

In new § 412.273 of these final regulations, we are establishing rules for the withdrawal of applications for reclassification for Federal fiscal year 1993 and thereafter. Under these rules, a hospital may request withdrawal of its application at any time prior to the issuance of an MGCRB decision. The request must be made in writing and will not be considered once a decision has been issued.

Comment: One commenter asked whether an SCH, and RRC, or an MDH that qualifies for a reclassification of its standardized amount will lose its designation as an SCH, RRC, or MDH. The commenter believes that such a hospital should be permitted to retain its special status during the term of the classification or, alternatively, should be allowed to resume such status without meeting requalification criteria should reclassification cease.

Response: The guidelines for geographic reclassification state that a provider reclassified for the purposes of

its standardized amount is considered to be reclassified for all purposes other than the wage index (see 55 FR 36761). This is because a rural hospital must be deemed to be located in an urban area under section 1886(d)(2)(D) of the Act before it can be paid the urban standardized amount. Thus, to the extent that a hospital's status as an RRC, SCH, or MDH is dependent upon its being located in a rural area, it will lose its special status if it qualifies for reclassification to an urban area for its standardized amount. This is consistent with our policy with respect to rural hospitals that are deemed to be located in an urban area under section 1886(d)(8) of the Act. Although the hospital will lose its special status as an RRC or rural SCH during the period of reclassification, we believe it is appropriate for these hospitals to continue to be able to qualify for geographic reclassification under the special access provision at § 412.230(a)(4). We are amending § 412.230(a)(4) to clarify this point. If we did not make this revision, hospitals that qualify under § 412.230(a)(4) would not be able to qualify under this provision in subsequent years since they would no longer be an RRC or SCH. We believe this would be contrary to the intent of the guideline.

The hospital's special status as an RRC or SCH will not be held in abeyance during the term of the hospital's geographic reclassification. In the event the hospital's reclassification ceases, it must reapply for special status and must meet all of the applicable qualifying criteria in effect at the time it seeks requalification. There are some exceptions to this policy which are discussed in the individual special status sections below.

We believe this policy is reasonable in light of the fact that each of the special status adjustments is designed to recognize the special needs and patient characteristics of particular categories of hospitals. For instance, RRC status is granted to those hospitals that draw patients from widely diverse geographical locations and offer a broad range of sophisticated services to large numbers of patients. SCH status is available to those hospitals that are isolated by distance, weather conditions, or travel time or that receive a high percentage of the inpatient market share compared to other hospitals in their service area. MDH status is designed to protect small, rural hospitals that have historically served a high percentage of Medicare patients.

Thus, each of these special status adjustments was created to recognize

the special characteristics of particular categories of hospitals, and the qualifying criteria for each adjustment are framed to identify those hospitals that should receive the adjustment. A hospital's patient characteristics and operating procedures (and, thus, its ability to meet the qualifying criteria) may be altered either since it initially qualified for special payment status or during its period of geographic reclassification. We, therefore, believe it is reasonable to require a hospital to demonstrate that it meets the criteria for a special payment adjustment when its reclassification status ends. Except in the limited instances discussed below, a hospital approved for geographic reclassification of its standardized amount will be considered to have voluntarily given up its MDH, RRC or rural SCH status. The hospital must meet the provisions at § 412.96(a) to requalify for RRC status or at § 412.92(b)(4) to requalify for SCH status. Since some hospitals may not have understood the effect reclassification would have on their special status, we are permitting hospitals to withdraw their applications for reclassification for FY 1992, even if the MGCRB has issued a decision, providing that the request for withdrawal is received within 60 days of publication of this final rule with comment period.

Rural Referral Centers

All three sets of criteria under which a hospital can qualify as a referral center (§ 412.96) are applicable to hospitals located in rural areas. However, only the criteria at § 412.96(b)(2) are also applicable to urban hospitals. That is, the bed-size criterion (§ 412.96(b)(1)) and the case-mix index/number of discharges/one-of-three optional criteria (§ 412.96(c)) are applicable only to hospitals located in rural areas. However, the referral pattern criteria at § 412.96(b)(2) are applicable to hospitals located in either urban or rural areas. Thus, a hospital that qualifies for RRC status based on the criteria at § 412.96(b)(1) or (c) and that is reclassified to an urban area for the purpose of its standardized amount, will lose its RRC status effective with the date that it is reclassified. A hospital qualified as a referral center under the criteria at § 412.96(b)(2) will not lose its referral center status.

Since an RRC's standardized amount is already based on the other urban amount, we anticipate that there will be few qualified RRCs seeking geographic reclassification for purposes of their standardized amount. Only those RRCs that meet the requirements to be

reclassified to a large urban standardized amount would benefit from reclassification.

Approved RRCs should keep in mind that if they voluntarily terminate their RRC status (including being approved for reclassification of their standardized amount), and then are not reclassified for a subsequent term, they can refile for RRC status only during the 3-month period preceding the start of their cost reporting period. They must meet the applicable criteria in effect at the time they reapply, and subsequent requalification as an RRC, if approved, will be effective at the start of their cost reporting period. The 3-month filing deadline and the effective date of RRC qualification are statutory requirements specified in section 1886(d)(5)(C)(i)(I) of the Act and, as in the past, there can be no exceptions to these requirements. Thus, a hospital that voluntarily terminates its RRC status in favor of geographic reclassification may face a period of time of being paid the standardized rural payment amounts between the date it loses its geographic reclassification status and the date it can requalify as an RRC.

Sole Community Hospitals

Prior to the implementation of the prospective payment system on October 1, 1983, some hospitals located in urban areas were approved for SCH status. Effective with the implementation of the prospective payment system, we limited the approval of SCH status to only those hospitals located in rural areas. However, we provided that all urban SCHs whose request for SCH status was received by the fiscal intermediary prior to October 1, 1983 and was subsequently approved could retain that status. Thus, since October 1, 1983, approval of new SCHs has been limited to hospitals located in rural areas.

Section 6003(e) of Public Law 101-239 amended section 1886(d)(5) of the Act to provide that an SCH is defined as " * * any hospital that the Secretary determines is located more than 35 road miles from another hospital, or that, by reason of factors * * * (as determined by the Secretary), is the sole source of inpatient hospital services reasonably available to individuals in a geographic area who are entitled to benefits under part A." When we implemented this change in the law as a part of our April 20, 1990 final rule with comment period, we continued our requirement that only rural hospitals are eligible for SCH status. In response to an issue raised by this commenter, we have reviewed the statutory language carefully and, based on this review, we have decided to

revise somewhat our definition of an SCH.

We note that the language of the law does not require that SCHs isolated by more than 35 road miles be located in a rural area. We have, therefore, determined that effective June 4, 1991, hospitals located in urban areas, either large urban or other urban, can qualify for SCH status if they are located more than 35 road miles from the nearest like hospital. We are amending § 412.92(a) to reflect this revision. We are making this revision effective upon publication of this final rule with comment period so that affected hospitals will know with certainty that, even after reclassification to an urban area, they will continue to qualify for SCH status.

The same definitions of "miles" and "like hospital" as are found at § 412.92(c) will apply to urban hospitals seeking SCH status. Likewise, the same criteria regarding all classification procedures as are found at § 412.92(b) will apply. Distances are measured from the front door of the requesting hospital to the front door of the nearest like hospital based on the shortest distance over improved roads. Rounding of mileage is not permissible, that is, 34.9 miles does not meet the standard; 35.0 does.

No urban hospital located fewer than 35 miles from the nearest like hospital can be qualified for SCH status (except those in existence prior to implementation of the prospective payment system and those redesignated pursuant to court order). That is, the provisions such as weather conditions, market share, and travel time that are applicable to rural hospitals located fewer than 35 miles from another hospital do not apply to urban hospitals. We base this decision on the fact that the law does not grant Secretarial discretion for the 35-mile criterion, but it clearly provides that the Secretary should publish the standards to be met for hospitals located fewer than 35 miles from another hospital. Because urban areas generally have better roads, faster snow-clearing, and the choice of more available hospitals, we do not believe SCH status should be granted to an urban hospital located fewer than 35 miles from another like hospital.

With this revision to the criteria for SCH status in mind, we note that any rural SCH that is approved for reclassification of its standardized amount and that is located fewer than 35 miles from the nearest like hospital, will lose its SCH status effective with the date of its reclassification. Rural SCHs that are located more than 35 miles from the nearest like hospital will

not lose their SCH status as a result of geographic reclassification to an urban area.

Hospitals that voluntarily terminate their SCH status in favor of geographic reclassification will no longer be paid based on the highest of the fully Federal rates, 100 percent of their updated 1987 hospital-specific rate, or 100 percent of their updated 1982 hospital specific rate. They will no longer be exempt from the capital reduction and they will not be eligible for the 5 percent volume adjustment for any full cost reporting period during which they were not classified as an SCH.

As with RRCs discussed above, we consider that a rural SCH located fewer than 35 miles from the nearest like hospital that is approved for reclassification of its standardized amount has voluntarily given up its SCH status. Should be hospital not be granted reclassification for subsequent terms, it can requalify for SCH status only if it meets the requirements at § 412.92(b)(4). That is, a hospital cannot be reclassified as an SCH unless one full year has passed since the effective date of its cancellation (including acceptance of geographic reclassification of its standardized amount) and unless it meets the criteria at § 412.92(a) for qualification for SCH status in effect at the time it reappears.

Medicare Dependent, Small Rural Hospitals

Section 1886(d)(5)(G)(iii) of the Act specifies that MDHs must be located in a rural area. Thus, for this special category of hospitals, it is clear that geographic reclassification to an urban standardized amount immediately cancels MDH status. Such a hospital would no longer be paid based on the highest of the applicable Federal rate, 100 percent of its updated 1987 hospital-specific amount, or 100 percent of its updated 1982 hospital-specific amount. During the term of its reclassification, it will be paid based on the applicable fully Federal rates. It will also not be eligible for the five percent volume adjustment for any full cost reporting period during which it was not classified as an MDH.

Should be previously classified MDH not be approved for subsequent reclassification, it will automatically be reclassified as an MDH effective with discharges occurring on the first day after its reclassification ceases, provided it continues to meet all of the requirements, that is, it is located in a rural area, it is not classified as an SCH, and it has 100 or fewer beds. Regardless of geographic classification, however, the MDH status expires for all hospitals

at the end of their last cost reporting ending on or before March 31, 1993.

Comment: A commenter was concerned about potential transition problems when an SCH or MDH whose cost reporting year does not coincide with the Federal fiscal year is reclassified for purposes of the standardized payment amount. The commenter questioned which Federal payment amount would be used in determining the aggregate payment for the year based on the greater of the SCH's or MDH's hospital-specific rate or the Federal payment amount. The commenter is particularly concerned that the intermediary will use a weighted average of the different applicable Federal payment amounts when making the comparison to the hospital-specific rate for purposes of determining the payment rate that results in the greatest aggregate payment amount to the hospital.

Response: As discussed in greater detail in a preceding comment and response, all MDHs and some SCHs will lose their special classification effective with their reclassification to an urban area for purposes of receiving the urban payment amount. In these cases, the hospital will receive payment under the SCH or MDH payment methodology for the part of its cost reporting period prior to the reclassification. For that portion of the cost reporting period, the Federal standardized amount applicable to the hospital before reclassification will be used to determine the hospital's payment under the "greater of" payment methodology. Once the hospital is reclassified and it loses its special status as an SCH or MDH, it will begin receiving payment based on its new Federal payment amount in the same manner as any other hospital. It will no longer be paid based on the greater of its hospital-specific rate or the Federal rate.

Those hospitals that continue to be classified as SCHs after their geographic reclassification will continue to be paid under the SCH payment methodology. In making the final determination of which rate results in the greatest payment amount, the change in Federal payment amount due to reclassification will be handled in exactly the same way as it currently in when there is a change in the Federal payment amount. As was discussed in detail in the September 4, 1990 prospective payment final rule (55 FR 35994-35998), it is not always possible to determine at the start of an SCH's cost reporting period which of its applicable payment rates results in the greatest aggregate payment for that period. Therefore, interim payment is made on

an individual bill basis, using the higher of the hospital's applicable hospital-specific amount (that is, the higher of its FY 1982 or 1987 amount) and the applicable Federal payment amount. This determination is made by the PRICER program used to pay Medicare bills. Each bill is priced based on the Federal rate. In addition, if PRICER determines that the hospital-specific rate would yield, on average, a higher payment, an add-on payment will be made for each discharge based on the estimated difference between the higher hospital-specific rate and the average Federal payment for the DRG to which the discharge is assigned. This methodology can incorporate any number of changes in the Federal payment amount. Therefore, for discharges occurring on or after the effective date of the SCH's reclassification, the new Federal payment amount will be used to determine an individual bill's payment. Of course, when the hospital's cost reporting period is completed, there is a final determination of precisely which of the payment rates resulted in the highest aggregate payment for the period and any necessary adjustments are made.

VI. Changes to the Regulations

This final rule with comment period makes the following changes to the text of regulations:

- Section 412.92 has been revised to state that a hospital need not be located in a rural area to be classified as a sole community hospital, as long as it is located more than 35 miles from other like hospitals.
- The title of 42 CFR part 412, subpart L, has been changed from The Medicare Geographical Classification Review Board to The Medicare Geographic Classification Review Board.
- In § 412.230, paragraph (a)(4)(iv) has been added to clarify that if an SCH or RRC loses its special status as a result of geographic redesignation, it is considered to retain its special status for the purpose of applying for continued geographic redesignation under the special rules for SCHs and RRCs at § 412.230(a)(4). In addition, paragraphs (d)(1) and (e)(1)(ii) of § 412.230 have been revised to clarify that a hospital must demonstrate the necessary geographic relationship specified in paragraphs (a) and (b) of § 412.230 to receive either an adjacent area's standardized amount or its wage index. Last, paragraph (e)(2)(ii) of § 412.230 has been corrected to state that occupational mix data is required only if a hospital is requesting classification

under the weighted average hourly wage provision at § 412.230(e)(1)(iii)(B).

- We have added criteria at § 412.234 concerning reclassification of all hospitals in a county located in an urban area to another urban area, and we have moved the alternative criteria for reclassification of all hospitals located in a NECMA from § 412.234 to § 412.236. In addition, the redesignated criteria at § 412.236 have been revised to provide that all the hospitals located in a county in a NECMA may also qualify for redesignation by meeting the new criteria § 412.234.

- In § 412.236, paragraphs (c)(1) and (c)(2) have been revised to state that, at the request of the hospital, the MGCRB may for good cause grant a hospital an extension beyond October 1 to complete its application for reclassification.

- We have added new § 412.273 to provide that a hospital may withdraw its application for reclassification at any time before the MGCRB issues a decision.

- In § 412.278, we have added a new paragraph (c) to provide for discretionary review by the Administrator of any final decision of the MGCRB and a new paragraph (d) setting forth criteria for the Administrator to use in deciding whether to review an MGCRB decision. We have added a new § 412.278(e) to provide for additional communication procedures applicable to the Administrator's review of an MGCRB decision both at a hospital's request or at his or her own discretion. We have also added a new § 412.278(f)(2)(ii) specifying that, in cases of discretionary review, the Administrator issues a decision in writing within 105 days of the MGCRB decision.

- Finally, we have redesignated portions of other sections of regulations to accommodate the addition of these provisions and have made several other technical corrections.

VII. Regulatory Impact Statement

A. Executive Order 12291

Executive Order 12291 (E.O. 12291) requires us to prepare and publish a regulatory impact analysis for any final rule that meets one of the E.O. 12291 criteria for a "major rule"; that is, a rule that is likely to result in—

- An annual effect on the economy of \$100 million or more;
- A major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or
- Significant adverse effects on competition, employment, investment, productivity, innovation, or on the

ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Hospitals reclassified as a result of this final rule will receive increased Medicare payments. However, in accordance with section 1886(d)(8)(D) of the Act, proportional adjustments will be made to the urban and rural standardized amounts, thereby eliminating any effect of the increased hospital payments on aggregate Medicare payments. Because this rule's effect is budget neutral, this final rule is not a major rule under E.O. 12291 criteria, and a regulatory impact analysis is not required.

B. Regulatory Flexibility Act

1. Introduction

We generally prepare a regulatory flexibility analysis that is consistent with the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 through 612) unless the Secretary certifies that a final rule will not have a significant economic impact on a substantial number of small entities. For purposes of the RFA, we consider all prospective payment hospitals to be small entities.

Section 1102(b) of the Act requires the Secretary to prepare a regulatory impact analysis if a final rule may have a significant impact on the operations of a substantial number of small rural hospitals. Such an analysis must conform to the provisions of section 604 of the RFA. For purposes of section 1102(b), we define a small rural hospital as a hospital that is located outside a Metropolitan Statistical Area (MSA) or a New England County Metropolitan Area (NECMA) and has fewer than 101 beds.

This final rule conforms our regulations to the legislative provisions of the Omnibus Budget Reconciliation Act of 1989 (Pub. L. 101-239) and the Omnibus Budget Reconciliation Act of 1990 (Pub. L. 101-508), and will specify procedures to be followed in implementing the law.

2. Summary of the Initial Impact Analysis

In the initial regulatory flexibility analysis that was published as part of the September 6, 1990 interim final rule, we explained that we were unable to estimate the impact the rule will have on hospitals because we could not predict which hospitals would apply for reclassification, or how the MGCRB will rule on the applications received by the deadline for consideration for FY 1992. In the initial impact analysis, we estimated that about 300 applications

would be submitted to the MGCRB. In point of fact, the MGCRB received over 1,000 complete applications by the closing date of November 6, 1990. The MGCRB has until March 30, 1991 to issue decisions on these applications. Moreover, there is a 105 day time period from the date of an MGCRB decision and completion of Administrator review. Until the MGCRB reaches its decisions on the applications and Administrator review is completed, we will not know what impact this rule will have for FY 1992.

In the initial impact analysis, we presented hypothetical examples to illustrate the potential effects on a hospital's Medicare revenues resulting from a successful reclassification application. Using those hypothetical cases, it is evident that a successful application could not only mean a substantial increase in revenues for a hospital, but could also represent a boost to the local economy. This would be especially true in the case of a successful group application, in which all the hospitals in a particular county were reclassified. The amount of the increased revenues could run into several million dollars, much of which could eventually flow into the surrounding community in the form of increased employment and additional purchases of goods and services. Even the effect of applying section 1886(d)(8)(D) of the Act in order to maintain the budget neutrality of the prospective payment system will not have a substantial impact on reclassified hospitals. The impact of reclassification on those hospitals that are reclassified will be much greater than the offsetting budget neutrality adjustment will be on those same hospitals.

3. Impact of Statutory and Other Changes Implemented in This Final Rule

We did not receive any comments regarding the initial impact analysis. Nor did we receive any data from commenters to assist with our analysis. As a result, we are unable to furnish any additional insight into the possible effects of this final rule above that which we presented in the initial impact analysis. We note, however, several changes in this final rule. Most of these changes are the result of provisions that were enacted by section 4002(h) of Public Law 101-508. As explained above, we cannot estimate the specific effects of these changes because of the unpredictable nature of the application and adjudicative process. We are, therefore, confining our discussion to describing whether the changes being

implemented will or will not benefit prospective payment hospitals.

a. *Group reclassification of urban hospitals.* One change that is likely to have an impact on prospective payment hospitals is the addition of § 412.234 establishing guidelines for the MGCRB to follow when considering a joint application from hospitals in a county located in an urban area seeking to be reclassified into another urban area. We are adding this section in response to language in the conference committee report accompanying Public Law 101-508 directing the Secretary to establish such guidelines. (H.R. Rep. No. 964, 101st Cong., 2nd Sess. 715 (1990).) These guidelines will apply to all joint urban hospital applications for reclassification for FY 1993.

As stated earlier, the reclassification of groups of hospitals could mean a substantial redistribution of Medicare funds, and this could not only have a substantial impact on reclassified hospitals, but on their communities as well. The increased flow of funds to these hospitals could mean greater employment in the area, which in turn could translate into more sales by local merchants to these employees. Also, direct sales of goods and services to hospitals may increase as a result of the enhanced revenues. If hospitals are able to spend the additional funds for patient care services, then access to care may also increase.

b. *Section 1886(d)(8)(C)(i)(II) of the Act.* Section 1886(d)(8)(C)(i)(II) of the Act modifies the way we compute the wage index value for reclassified hospitals if the reclassification results in a reduction of the wage index value of more than 1.0 percent for the urban area into which the hospital is reclassified. Before enactment of revised section 1886(d)(8)(C)(i)(II) of the Act, if reclassification would have produced a decrease of more than 1.0 percent in the urban wage index value, we maintained the old wage index value (computed without regard to the reclassified hospitals) for those hospitals in the urban area, and computed a separate, county-specific wage index value for the group of hospitals being reclassified. We did not specify how the wage index would be calculated for individual hospitals that were reclassified. With the enactment of revised section 1886(d)(8)(C)(i)(II), of the Act, if the urban wage index value is lowered by more than 1.0 percent, instead of paying the reclassified hospital on the basis of a separate, county-specific wage index value, a reclassified hospital will be paid using a wage index value that combines wages of all reclassified

hospitals in a given area and wages of that urban area into which the hospital is being reclassified. The wage index value for the other hospitals in the urban area will continue to be computed without taking into account reclassified hospitals.

We believe that most hospitals applying for reclassification are located in rural areas. Generally, rural area wage index values are lower than the urban area wage index values in the same State. By computing a blended wage index comprised of the wages paid to reclassified hospitals with the wages paid to hospitals in the adjacent urban area, a reclassified hospital will receive an increase in payments over what it would have received before section 1886(d)(8)(C)(i)(II) was revised.

c. *Section 1886(d)(10)(C)(iii)(II) of Act.* Revised section 1886(d)(10)(C)(iii)(II) of the Act provides the Administrator with the authority to review decisions of the MGCRB at his or her discretion. That is, the Administrator may review a decision by the MGCRB even if the hospital has not requested review. It is highly likely that the Administrator will review some of the MGCRB's decisions and that the Administrator will modify or reverse some of the MGCRB's decisions. However, the likely effect of this provision is unclear because it is impossible to predict how many MGCRB decisions the Administrator will decide to review and how many MGCRB decisions will be modified or reversed. Although those hospitals whose favorable decisions are overturned based on the Administrator's discretionary review will be adversely affected, these adverse effects may be mitigated by a smaller adjustment in the budget neutrality factor for reclassification if the overall effect of the discretionary review results in fewer hospitals being reclassified.

d. *Right to withdraw an application for reclassification.* In response to comments, we added § 412.273 that allows a hospital to withdraw an application for reclassification at any time before the MGCRB issues its decision on the hospital's requested reclassification. This provision will be effective with applications for reclassification for FY 1993 (that is, filed by October 1, 1991).

We cannot predict what percent of those hospitals that withdraw their applications would receive favorable decisions on their reclassification application. However, generally, this provision should benefit a hospital applying for reclassification by allowing it to withdraw its application if it determines that a favorable decision on

an application would not be to the hospital's advantage because of changes in either the hospital's wage index value or the wage index value for the area into which the hospital is seeking reclassification.

In addition to this general provision allowing hospitals to withdraw their applications before the MGCRB reaches a decision, for FY 1992 only, we are allowing all hospitals to withdraw their applications after a decision has been issued by the MGCRB, if their request is received by [60 days after date of publication in the Federal Register]. Again, it is impossible for us to know what effect this opportunity to withdraw an application for FY 1992 will have on prospective payment hospitals. However, we surmise that it will benefit hospitals.

C. Conclusion

In the absence of data, we are unable to reach any specific, quantifiable conclusions regarding the potential effects of this final rule. We have, however, pointed to the sizable redistributive effects that may flow from some of the MGCRB's decisions (especially those that involve group applications). We have also briefly discussed the possible effects of the changes implemented in this final rule. For the most part, we believe these changes will benefit hospitals applying for geographic reclassification.

VIII. Other Required Information

A. Effective Dates

The September 8, 1990 interim final rule set forth procedures and criteria for the MGCRB to use in making its decisions on hospital applications for geographic reclassification. Nothing in this final rule with comment period changes the effective date of those provisions, which permit hospital reclassifications beginning October 1, 1991 for approved requests filed by November 6, 1990. However, this final rule contains several changes to the September 8, 1990 interim final rule, with various effective dates as described below:

- The revised method for applying the wage index to redesignated hospitals (first set forth at 56 FR 570) is effective for discharges occurring on or after January 1, 1991, as specified by Congress under section 1886(d)(8)(C) of the Act as amended by section 4002(h)(1)(A) of Public Law 101-508.
- The new procedures for review of any MGCRB decision at the discretion of the Administrator at § 412.273(c) are effective June 4, 1991.

- The provision that a hospital may, for an application for reclassification for Federal fiscal year 1992 only, withdraw its application after the MGCRB issues a decision is effective June 4, 1991, through August 5, 1991.

- The provision that a hospital located in an urban area can qualify for sole community hospital status if it is located more than 35 road miles from the nearest like hospital is effective June 4, 1991.

- All other changes implemented by this final rule with comment period are applicable beginning October 1, 1991, that is, for applications for geographic reclassification for Federal fiscal year 1993. These changes include a hospital's right to withdraw an application before the MGCRB issues a decision and the criteria for all hospitals in a county located in an urban area to request reclassification to another urban area.

B. Waiver of Notice of Proposed Rulemaking and 30-day Delay in the Effective Date

We ordinarily publish a notice of proposed rulemaking for a rule to provide a period for public comment. However, we may waive that procedure if we find good cause that prior notice and comment are impractical, unnecessary, or contrary to public interest. We find good cause to issue this rule as a final rule with comment period because the delay involved in prior notice and comment procedures for the new provisions of this rule would be contrary to the public interest.

First, as explained elsewhere in this preamble, the MGCRB faces a statutory deadline of March 30, 1991 for issuing decisions on hospital reclassifications for Federal FY 1992. If hospitals are to receive timely the potential benefits of reclassification, if is necessary that complete appeal procedures immediately be in place. Timely adjudication is also essential to ensure that the budget neutrality requirement imposed by Congress in section 1886(d)(6) of the Act can be met for Federal FY 1992 prospective payment system rates. In addition, section 4207(k) of Public Law 101-508 provides the authority to implement its provisions through a final rule with comment period when necessary. Thus, with regard to the new procedures for discretionary review by the Administrator of MGCRB decisions, a waiver of the notice of proposed rulemaking and prior public comment procedures is necessary and justified.

The only other new provision in this final rule with comment period that did not result solely from a comment on the September 6, 1990 interim final rule is

the establishment of criteria for all hospitals located in a county in an urban area to request joint reclassification to another urban area. As noted above, we added this provision based both on a commenter's suggestion and on explicit instructions from Congress in the Conference Committee Report accompanying Public Law 101-508 that the Secretary establish such guidelines at the earliest possible date. Therefore, in order for groups of hospitals to be able to apply for joint reclassification by October 1, 1992 for reclassification for FY 1993, it is necessary that these guidelines be issued as final regulations at this time.

Therefore, we have concluded that it is appropriate to issue a final rule in this instance. However, we are providing a 60-day period for public comment, as indicated at the beginning of this rule, on changes to the September 6, 1990 interim final rule resulting from provisions of Public Law 101-508. After considering comments that are received timely, we will respond to the comments, include any changes in the rule that might be necessitated in light of those comments, and publish a final rule in the *Federal Register*.

We also normally provide a delay of 30 days in the effective date for documents such as this. However, if adherence to this procedure would be impractical, unnecessary, or contrary to public interest, we may waive the delay in the effective date. We find good cause to waive the usual 30-day delay for the provisions scheduled to take effect upon the publication of this final rule with comment period.

As explained above, it is essential that the new administrative review provisions have immediate effect so that the complete appeal procedures to be followed for MGCRB decisions during the current application period will be in place. Any delay in the effective date for this rule would also jeopardize the budget neutrality requirement described above. The provision that a hospital or hospitals may, for an application for reclassification for FY 1992 only, withdraw an application after the MGCRB issues its decision is entirely beneficial to hospitals and needs to take effect as soon as possible after the MGCRB issues a decision. Finally, the provision that a hospital located in an urban area can qualify for SCH status if it is located more than 35 miles from a like hospital also needs to take effect upon publication, so that affected hospitals can know with certainty that even after reclassification to an urban area, they continue to qualify for SCH status.

Thus, a 30-day delay in the effective date would be contrary to the public interest. Therefore, we find good cause to waive the usual 30-day delay in effective date.

C. Paperwork Reduction Act

Sections 412.230, 412.232, 412.234, 412.236, 412.254, 412.260, 412.266 and 412.278 of this final rule with comment contain information collection requirements subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1980. The cited sections have been approved by OMB through October 1993 under OMB control number 0938-0573.

D. Public Comments

Because of the large number of items of correspondence we normally receive concerning regulations, we cannot acknowledge or respond to the comments individually. However, we will respond to all comments received by the date and time specified in the "Dates" section of this preamble, and issue any necessary changes in a final rule.

List of Subjects in 42 CFR Part 412

Health facilities, Medicare, Reporting and recording requirements.

42 CFR part 412 is amended as set forth below:

CHAPTER IV—HEALTH CARE FINANCING ADMINISTRATION, DEPARTMENT OF HEALTH AND HUMAN SERVICES

Subchapter B—Medicare Program

Part 412 is amended as follows:

PART 412—PROSPECTIVE PAYMENT SYSTEM FOR INPATIENT HOSPITAL SERVICES

A. The authority citation for part 412 is revised to read as follows:

Authority: Sections 1102, 1815(e), 1871, and 1886 of the Social Security Act (42 U.S.C. 1302, 1395g(e), 1395hh, and 1395ww).

B. In subpart C, § 412.92, the introductory text of paragraph (a) is revised; paragraph (a)(1) is removed; paragraphs (a)(2), (a)(3), and (a)(4) are redesignated as paragraphs (a)(1), (a)(2), and (a)(3), respectively; the reference to "paragraph (a)(2)(i)" in newly redesignated paragraph (a)(1)(ii) is revised to read "paragraph (a)(1)(i)"; and the reference to "paragraph (a)(2)(i) or (a)(2)(ii)" in paragraph (b)(1)(ii) is revised to read "paragraphs (a)(1)(i) or (a)(1)(ii)".

Subpart G—Special Treatment of Certain Facilities

§ 412.92 Special treatment: Sole community hospitals.

(a) *Criteria for classification as a sole community hospital.* HCFA classifies a hospital as a sole community hospital if it is located more than 35 miles from other like hospitals, or it is located in a rural area (as defined in § 412.83(b)) and meets one of the following conditions:

C. Subpart L is amended to read as follows:

1. The title of Subpart L is revised to read as follows:

Subpart L—The Medicare Geographic Classification Review Board

2. In § 412.230, new paragraph (a)(4)(iv) is added; paragraph (d)(1) is revised; the introductory text of paragraphs (e)(1) and (e)(2) are republished; and paragraphs (e)(1)(ii) and (e)(2)(ii) are revised to read as follows:

§ 412.230 *Criteria for an individual hospital seeking redesignation to a different rural or urban area.*

(a) *General.*

(4) *Special rules for sole community hospitals and rural referral centers.*

(iv) If a sole community hospital or rural referral center loses its special status as a result of redesignation, the hospital is considered to retain its special status for the purpose of applicability of the special rules in paragraph (a)(4) of this section.

(d) *Use of an adjacent area's standardized amount—(1) Criteria.* To receive an adjacent area's standardized amount, a hospital must demonstrate that its incurred costs are more comparable to the amount it would be paid if it were reclassified than the amount it would be paid under its current classification, and that it has the necessary geographic relationship (as specified in paragraphs (a) and (b) of this section) with the area to which it seeks redesignation.

(e) *Use of urban or other rural area's wage index—(1) Criteria for use of adjacent area's wage index.* To use an adjacent area's wage index, a hospital must demonstrate the following:

(ii) The hospital has the necessary geographic relationship as specified in

paragraphs (a) and (b) of this section; and

(2) Appropriate wage data. For a wage index change, the hospital must submit appropriate data as follows:

(ii) For data for other hospitals, the hospital must provide data concerning both of the following:

(A) The average hourly wage in the adjacent area, which is taken from the most recent HCFA hospital wage survey; and

(B) If the hospital is requesting reclassification under § 412.230(e)(1)(iii)(B), occupational-mix data to demonstrate the average occupational mix for each employment category in the adjacent area. Occupational-mix data can be obtained from the Bureau of Labor Statistics' survey of a limited number of metropolitan areas; or surveys conducted by the American Hospital Association.

3. Section § 412.234 is redesignated as § 412.236; a new § 412.234 is added; and paragraph (a)(2) of newly redesignated § 412.236 is revised to read as follows:

§ 412.234 *Criteria for all hospitals in an urban county seeking redesignation to another urban area.*

(a) *General criteria.* For all prospective payment hospitals in an urban county to be redesignated to another urban area, the following conditions must be met:

(1) All hospitals in an urban county must apply for redesignation as a group.

(2) The county in which the hospitals are located must be adjacent to the urban area to which they seek redesignation.

(3) The county in which the hospitals are located must be part of the Consolidated Metropolitan Statistical Area (CMSA) that includes the urban area to which they seek redesignation.

(b) *Wage Criteria—(1) Aggregate hourly wage.* The aggregate average hourly wage of all hospitals in the urban county must be at least 85 percent of the average hospital hourly wage in the MSA or NECMA to which the hospitals in the county seek reclassification; or

(2) *Aggregate hourly wage weighted for occupational mix.* The aggregate average hourly wage of all hospitals in the urban county, weighted for occupational categories, is at least 90 percent of the occupationally adjusted hourly wage, in the MSA or NECMA to which the hospitals in the county seek reclassification.

(c) *Standardized amount—(1) Criteria.* The urban hospitals must demonstrate that their average incurred

costs are more comparable to the amount the hospitals would be paid if they were reclassified than the amount they would be paid under their current classification.

(2) *Demonstrating comparable costs.* The urban hospitals demonstrate that their costs are more comparable to the average amount they would be paid if they were reclassified if, on average, each hospital's case-mix adjusted cost per case is at least equal to the amount it would be paid under its current classification plus 75 percent of the difference between that amount and the amount the hospital would receive if it were reclassified.

(d) *Appropriate data.—(1) Wage data.* The hospitals must submit appropriate wage data as provided for in § 412.230(e)(2).

(2) *Cost data.* The hospitals must submit appropriate data as provided for in § 412.230(d)(3).

§ 412.236 *Alternative criteria for hospitals located in an NECMA.*

(a) *General.*

(2) All the hospitals in a NECMA may qualify for redesignation by meeting the criteria in either § 412.234 or in paragraph (c) of this section.

§ 412.250 [Amended]

4. In § 412.250, the reference to "§ 412.230 through § 412.234 in paragraph (a) is revised to read "§ 412.230 through § 412.236".

5. In § 412.256, the reference to "§ 412.230 through § 412.234" in paragraph (b)(3) is revised to read "§ 412.230 through § 412.236"; and paragraph (c) is revised to read as follows:

§ 412.256 *Application requirements.*

(c) *Opportunity to complete a submitted application.* (1) The MGCRB will review an application within 15 days of receipt to determine if the application is complete. If the MGCRB determines that an application is incomplete, the MGCRB will notify the hospital, with a copy to HCFA, within the 15 day period, that it has determined that the application is incomplete and may dismiss the application if a complete application is not filed by October 1.

(2) At the request of the hospital, the MGCRB may, for good cause, grant a hospital that has submitted an application by October 1, an extension

beyond October 1 to complete its application.

6. New § 412.273 is added to read as follows:

§ 412.273 Withdrawing an application.

(a) A hospital, or group of hospitals, may withdraw an application at any time before the MGCRB issues a decision.

(b) A request to withdraw an application must be made in writing by all hospitals that are party to the application.

7. In § 412.278, the heading of paragraph (a) and paragraph (b)(1) are revised; the introductory text in paragraph (c), and paragraphs (c)(3), (c)(4), and (c)(5) are redesignated as paragraphs (f)(1), (f)(2), (f)(3), and (f)(4), respectively; new paragraph (c), (d), and (e) are added; and redesignated paragraph (f)(2) is revised to read as follows:

§ 412.278 Administrator's review.

(a) *Hospital's request for review.*

(b) *Procedures for hospital's request for review.* (1) The hospital's request for review must be in writing and sent to the Administrator, in care of the Office of the Attorney Advisor. The request must be received by the Administrator within 15 days after the date the MGCRB issues its decision. A request for Administrator review filed by facsimile (FAX) or other electronic means will not be accepted. The hospital must also mail a copy of its request for review to HCFA's Office of Payment Policy.

(c) *Discretionary review by the Administrator.* (1) The Administrator may, at his or her discretion, review any final decision of the MGCRB.

(2) The Administrator promptly notifies the hospital that he or she has decided to review a decision of the MGCRB. The notice of review indicates the particular issues to be considered and includes copies of any comments submitted to the Administrator by HCFA staff concerning the MGCRB decision.

(3) Within 15 days of the receipt of the Administrator's notice of review, the hospital may submit a response in writing to the Administrator, with a copy of HCFA.

(d) *Criteria for discretionary review.* In deciding whether to review an MGCRB decision, the Administrator normally considers whether it appears that any of the following situations apply:

(1) The MGCRB made an erroneous interpretation of law, regulation, or HCFA Ruling.

(2) The MGCRB's decision is not supported by substantial evidence.

(3) The case presents a significant policy issue having a basis in law and regulations, and review is likely to lead to issuance of a HCFA Ruling or other directive needed to clarify a provision in the law or regulations.

(4) The decision of the MGCRB requires clarification, amplification, or an alternative legal basis.

(5) The MGCRB has incorrectly extended its authority to a degree not provided for by law, regulation, or HCFA Ruling.

(e) *Communication procedures.* All communications between HCFA staff and the Administrator concerning the

Administrator's review of an MGCRB decision must be in writing. As specified in paragraphs (b) and (c) of this section, copies of comments by HCFA staff are sent to applicant hospitals within 15 days of receipt of a hospital's request for review, or, in cases in which the Administrator decides to review a case at his or her discretion, are included with the Administrator's notice of review. In the event there are additional communications between HCFA staff and the Administrator concerning MGCRB decisions reviewed by the Administrator under paragraphs (b) or (c) of this section, HCFA furnishes copies of the communications to the hospital or group of hospitals.

(f) *Administrator decision.*

(2) The Administrator issues a decision in writing to the party with a copy to HCFA—

(i) Not later than 90 days following receipt of the party's request for review, or

(ii) Not later than 105 days following issuance of the MGCRB decision in the case of review at the discretion of the Administrator.

(Catalog of Federal Domestic Assistance Program No. 93.773, Medicare—Hospital Insurance)

Dated: March 24, 1991.

Gail R. Wilensky,
Administrator, Health Care Financing
Administration.

Approved: May 21, 1991.

Louis W. Sullivan,
Secretary.

[FR Doc. 91-13082 Filed 5-30-91; 12:11 pm]

BILLING CODE 4120-01-M

Best Deal

Tuesday
June 4, 1991

Part V

Department of Health and Human Services

Office of Community Services

Request for Applications Under the Office of Community Services' Fiscal Year 1991 Discretionary Grants Program; Notice

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of Community Services

[Program Announcement No. OCS-91-1]

Request for Applications Under the Office of Community Services' Fiscal Year 1991 Discretionary Grants Program

AGENCY: Office of Community Services, ACF, HHS.

ACTION: Request for applications under the Office of Community Services' Discretionary Grants Program.

SUMMARY: The Administration for Children and Families, Office of Community Services [OCS] announces that competing applications will be accepted for new and continuation grants pursuant to the Secretary's discretionary authority under section 681(a)(2) of the Community Services Block Grant Act of 1981, as amended. This Program Announcement consists of seven parts:

Part A covers information on legislative authorities and defines terms used in the Program Announcement;

Part B lists the three program priority areas under which grants will be made, describes the types of projects that will be considered for funding under each priority area, and defines who is eligible to apply;

Part C provides details on application prerequisites, funds available in each priority area, limitations on grant amounts, project periods, who should benefit from the programs, and other application requirements;

Part D describes the application procedures, including the availability of forms, where and how to submit an application, the criteria used in screening and evaluating applications, and compliance with Federal requirements regarding the drug-free workplace and debarment requirements in submitting the application;

Part E describes the contents of the application package and receipt process;

Part F provides instructions for completing the SF-424 following standard Federal guidelines as well as OCS specific requirements, and describes how the project narrative should be ordered and presented; and

Part G details post-award information and reporting requirements.

CLOSING DATE: The closing date for submission of applications is August 5, 1991.

FOR FURTHER INFORMATION CONTACT: Office of Community Services, Office of State and Project Assistance, 370

L'Enfant Promenade SW., Washington, DC 20447, Telephone (202) 401-9345.

Table of Contents

Part A—Preamble

1. Legislative Authority
2. Departmental Goals
3. Definition of Terms

Part B—Program Priority Areas

Part C—Application Prerequisites

1. Eligible Applicants
2. Availability of Funds
3. Project Period
4. Mobilization of Resources
5. Program Beneficiaries
6. Number of Projects in Application
7. Multiple Submittals
8. Sub-contracting or Delegating Projects

Part D—Application Procedures

1. Availability of Forms
2. Application Submission
3. Intergovernmental Review
4. Application Consideration
5. Criteria for Screening Applicants
6. Criteria for Review and Evaluation of all Applications (except Priority Area 1.3)
7. Criteria for Review and Evaluation of applications Filed Under Priority Area 1.3

Part E—Contents of Application and Receipt Process

1. Contents of Application
2. Acknowledgement of Receipt

Part F—Instructions for Completing Application Package

1. SF-424 Application for Federal Assistance
2. SF-424A Budget Information—Non-Construction Programs
3. SF-424B—Assurances—Non-Construction
4. Restriction on Lobbying Activities
5. Disclosure of Lobbying Activities
6. Project Narrative

Part G—Post Award Information and Reporting Requirements

Part A—Preamble

1. Legislative Authority

Section 681(a)(2) of the Community Services Block Grant Act as amended authorizes the Secretary to make funds available to support program activities of national or regional significance to alleviate the causes of poverty in distressed communities.

2. Departmental Goals

The Secretary has established seven strategic goals guiding the Department of Health and Human Services' policies and programs over the next several years. One of those goals is particularly relevant to OCS' Discretionary Grants Program, i.e. strengthening the American family. The Secretary's Program Directions on how programs should be managed in order to achieve this goal include improving access of youth living in low-income families to needed support services, including employment training and other transition to work

services, and improving the integration, coordination and continuity of the various HHS funded services potentially available to families currently living in poverty.

3. Definition of Terms

For purposes of this Program Announcement the following definitions apply:

—**Affiliate:** An entity which has legal and/or financial ties to a community development corporation, and which also meets the statutory requirement that it be governed by a board consisting of residents of the community and business and civic leaders.

—**Community development corporation:** A private, locally initiated, nonprofit entity, governed by a board consisting of residents of the community and business and civic leaders, which has a record of implementing economic development projects or whose Articles of Incorporation and/or By-Laws indicate that it has a focus in the area of economic development.

—**Displaced worker:** An individual who is in the labor market but has been unemployed for six months or longer.

—**Distressed community:** A geographic urban neighborhood or rural community of high unemployment and pervasive poverty.

—**Eligible applicant:** (See appropriate Priority Area under part B).

—**Indian tribe:** A tribe, band, or other organized group of Indians recognized in the State in which it resides or which is considered by the Secretary of the Interior to be an Indian tribe or an Indian organization for any purpose.

—**Migrant farmworker:** An individual who works in agricultural employment of a seasonal or other temporary nature who is required to be absent from his/her place of permanent residence in order to secure such employment.

—**Rural:** An area that is not within the outer boundary of a metropolitan entity having a population of 25,000 or more and contiguous communities with a population density of 100 persons or more per square mile according to the latest decennial census. Such an area may be located entirely within one State or made up of contiguous interstate communities.

—**Seasonal farmworker:** Any individual employed in agricultural work of a seasonal or other temporary nature who is able to remain at his/her place of permanent residence while employed.

—*Budget period:* The interval of time into which a grant period of assistance is divided for budgetary and funding purposes.

—*Project period:* The total time for which a project is approved for support, including any approved extensions.

Part B—Program Priority Areas

The program priority areas of the Office of Community Services' Discretionary Grants Program and their purposes are as follows:

Priority Area 1.0 Urban and Rural Community Economic Development.

1.1 Urban and Rural Community Economic Development (Operational).

1.2 Urban and Rural Community Economic Development (HECU Set-Aside).

1.3 Urban and Rural Community Economic Development (Pre-development).

1.4 Urban and Rural Community Economic Development (YOU Program Set-Aside).

Priority Area 2.0 The Planning and Development of Rural Housing (including rental housing for low-income individuals) and community facilities.

2.1 Rural Housing (including rental housing for low-income individuals).

2.2 Rural Community Facilities Development (Water and Waste Water Treatment Systems Development).

Priority Area 3.0 Assistance for Migrants and Seasonal Farmworkers.

3.1 Assistance for Migrants and Seasonal Farmworkers (Set-Aside).

Priority Area 1.0 Urban and Rural Community Economic Development

The purpose of this priority area is to encourage the creation of projects intended to provide employment and business development opportunities for low-income people through business, physical or commercial development, and generally to improve the quality of the economic and social environment of low-income residents, including displaced workers, at-risk teenagers, individuals residing in public housing, and individuals who are homeless. It is intended to provide resources to eligible applicants but also has the broader objectives of arresting tendencies toward dependency, chronic unemployment, and community deterioration in urban and rural areas.

To this end, the program also seeks to attract additional private capital into distressed communities, including enterprise zones, and to build and/or expand the ability of local institutions to better serve the economic needs of local residents.

Applications under this Priority Area should include an Executive Summary of the proposal not to exceed five pages.

This summary must address the program principles within this announcement and document that the proposed project will have national or regional significance.

Priority Area 1.1 Urban and Rural Community Economic Development (Operational)

Funds will be provided for a limited number of private non-profit community development corporations (or affiliates of such corporations) for business development activities at the local level. Funding will be provided for specific projects and will require the submission of business plans or developmental proposals that meet the test of economic feasibility.

Projects must further the Departmental goals of strengthening American families and promoting their self-sufficiency. OCS is particularly interested in receiving applications that stress public-private partnerships that are directed toward the development of economic self-sufficiency through a focus on economic expansion.

Applicants located in State-designated enterprise zones, i.e. an area in which a legislative entity has enacted a program of tax and regulatory relief to encourage business development, are urged to submit applications. Such projects must be linked with—and complement—enterprise zone initiatives, and may request funds for a business development project or a project that demonstrates innovative ways to involve the poverty community in the implementation of the enterprise zone concept.

Applications must show that the proposed project:

(1) Creates full-time permanent jobs. Seventy-five percent (75%) of those jobs created must be filled by low-income residents of the community and must also provide for career development opportunities. Project emphasis should be on employment of individuals who are unemployed or on public assistance, with particular emphasis on at-risk teenagers, individuals residing in public housing, and individuals who are homeless. While projected employment in future years may be included in the application, it is essential that the focus of employment projects concentrate on those jobs created during the duration of the OCS project period; and/or

(2) Creates a significant number of business development opportunities for low-income residents of the community or significantly aids such residents in maintaining economically viable businesses; and

(3) Provides for establishing the self-sufficiency of program participants.

In the evaluation process, favorable consideration will be given to applicants under this priority area who show the lowest cost-per-job created. Unless there are extenuating circumstances, OCS will not fund projects where the cost-per-job in OCS funds exceeds \$15,000.

Any applicant which proposes to use the requested OCS funds to make an equity investment such as the purchase of stock, or a loan to a business concern, including a wholly-owned subsidiary, or to make a sub-grant with a portion of the OCS funds, must include in its application a written agreement with the third party that commits the latter to the following:

1. A minimum of 75% of the jobs to be created under the grant will be for low-income individuals.

2. The grantee will have authority to screen applicants for jobs to be filled by low-income individuals and to verify their eligibility.

3. The grantee will have a seat on the Board of Directors of the third party's if the grantee's investment equal 25% or more of the firm's assets. (Not applicable to loans.)

4. Reports will be made on a quarterly basis to the grantee on the use of grant funds.

5. A procedure will be developed to assure that there are no duplicative counts of jobs created.

6. Detailed information will be provided on how the grant funds will be used by the third party. In addition, the agreement will provide details on how the community development corporation will provide support and technical assistance to the firm in areas of recruitment and retention of low-income individuals.

Any funds that are proposed to be used for training purposes must be limited to providing specific job-related training to those poverty level individuals who have been selected for employment in the grant supported project or who have been selected for training or participation in a project where potential jobs have already been identified.

OCS encourages applications that create linkages with community organizations administering the JOBS program which will train and place residents dependent on public assistance into jobs created by the project funded under this priority area.

Projects which would result in the relocation of a business from one geographic area to another with the possible displacement of employees are discouraged.

OCS will not consider applications that propose to establish or expand revolving loan funds, nor proposals that are geared towards the establishment of Small Business Investment Corporations or Minority Enterprise Small Business Investment Corporations.

OCS does not anticipate approving the funding of applications which propose to sub-grant all or most of the grant activities to an unrelated entity, with the exception of applications eligible for the special set-aside fund described below.

Applicants must be aware that projects funded under this priority area must be operational by the end of the project period, i.e. businesses must be in place, and low-income individuals actually employed in those businesses.

Eligible applicants are private, locally initiated, non-profit community development corporation (or affiliates of such corporations) governed by a board consisting of residents of the community and business and civic leaders which sponsor enterprises providing employment and business development opportunities for low-income residents of the community designed to increase business and employment opportunities in the community.

See part F, 6, for special instructions on developing a work program for this priority area.

Priority Area 1.2 Urban and Rural Community Economic Development (HBCU Set-Aside)

For Fiscal Year 1991, a set-aside fund of \$2.5 million will be included under this priority area for eligible applicants that submit projects that will be carried out in conjunction with Historically Black Colleges and Universities through contract or sub-grant. Such projects must conform to the purposes, requirements, and prohibitions applicable to those submitted under Priority Area 1.1.

These projects should reflect a significant partnership role for the college or university and the applicant in doing so will be considered to have fulfilled the goals of the Public-Private Partnerships evaluation criterion and will be granted the maximum number of points in that category. Applications for these set-aside funds which are not funded due to the limited amount of funds available will also be considered competitively within the larger pool of eligible applicants under priority area 1.1.

See Part F, 6, for special instructions on developing a work program for this priority area.

Priority Area 1.3 Urban and Rural Community Economic Development (Pre-developmental)

OCS intends in this priority area to provide funds to recently-establish private, non-profit community development corporations (or affiliates of such corporations) which propose to undertake economic development activities in distressed communities.

OCS recognizes that there are a number of newly-organized non-profit community development corporations who have identified needs in their communities but who have not had the staff or other resources to develop projects to address those needs. This lack of resources also might be affecting their ability to compete for funds, such as those provided under OCS's Urban and Rural Community Development Program (Operational Grants) since their limited resources would preclude them developing a comprehensive business plan and/or mobilizing resources. OCS has an interest in providing support to these new entities in order to enable them to become more firmly established in their communities thereby bringing technical expertise and new resources to these previously unserved or underserved communities. Therefore, OCS is setting aside \$500,000 in Fiscal Year 1991 for grants to private non-profit community development corporations, or affiliates of such corporations, which have been in existence for no more than three years and have never received OCS funding. From this sum, grants of up to \$500,000 each will be made to eligible applicants.

These grants will be made for a period of six months and will not require matching funds.

The grants will be pre-developmental grants under which CDCs or their affiliates may incur costs to: (1) Evaluate the feasibility of potential projects which address identified needs in the low-income community and which conform to those projects and activities allowable under Priority Areas 1.1 and 1.2; (2) develop a Business Plan related to one of those projects; and (3) mobilize resources to be contributed to the project, including the utilization of Historically Black Colleges and Universities. Based on the availability of funds in Fiscal Year 1992, grantees would be able to compete for any OCS funds and OCS would consider establishing a set-aside. Grants might be for a maximum of \$200,000 and competition for those funds restricted to those organizations receiving Fiscal Year 1991 pre-development grants. The Business Plan developed as part of the pre-developmental grants would be

submitted as part of the competitive application.

Each application for Fiscal Year 1991 funding under this Priority Area must include the following as part of the project narrative in part IV of the SF 42:

1. Description of the impact area, i.e., a description of the low-income area it proposes to address;
2. Analysis of need in the distressed community;
3. Project objectives and measurable impact, i.e., a discussion of the types of projects that might be implemented to address the identified needs and how the proposed projects relate to the applicant's organizational goals and previous experience (if any); and
4. Implementation factors; quarterly work plans with specific task timeliness

Priority Area 1.4 Urban and Rural Community Economic Development (YOU Program Set-Aside)

For Fiscal Year 1991, \$1.5 million will be set aside to specifically address the Secretary's Program Direction related to improving the integration, coordination and continuity of HHS funded services potentially available to families currently living in poverty. In this instance, OCS is interested in the integration and coordination of services funded under this priority area with those funded by the Department of Labor under its Youth Opportunities Unlimited Program (YOU).

The YOU Program is a demonstration program aimed at high poverty urban neighborhoods and rural counties. The demonstration concentrates a large amount of resources into a relatively small geographic area (neighborhoods of 25,000 or less) with the goal of fundamentally changing the entire set of opportunities facing youth growing up in the area. In July 1990 grants of \$2.7 million each were awarded to seven organizations by the Department of Labor.

This set-aside will be available to applicants eligible for funding under OCS' Urban and Rural Community Economic Development Program who submit applications for projects which will be implemented within the target areas of the YOU demonstration. These target areas are prescribed communities within the cities of Atlanta, Baltimore, Columbus, Los Angeles, Philadelphia, and San Diego and two rural counties within the State of Mississippi. The exact boundaries of these areas are available from the respective YOU coordinators listed in Attachment K to this Program Announcement.

OCS is particularly interested in funding projects under this set-aside

that both provide jobs with wages sufficient to support a family and that enhance the long-term economic and social environment of the target area.

Projects funded under this set-aside must conform to the purposes, requirements, and prohibitions applicable to those submitted under Priority Area 1.1. In addition, there must be a formal, cooperative relationship established between the applicant and the agency which received funding under DOL's YOU Program. The application must include a written agreement between the applicant and the YOU Program grantee which contains specific language confirming that the project will be carried out in the target area. The agreement must include the goals and objectives that the applicant and the YOU Program grantee expect to achieve through their collaboration. It also must describe the cooperative relationship, including specific activities and/or actions each of these entities proposes to carry out in support of the project and the mechanism(s) to be used in coordinating those activities if the project is funded by OCS. The extent to which services will be integrated and coordinated and the significance of those services will receive consideration in the review process.

Any applicant which proposes to use the requested OCS funds to make an equity investment such as the purchase of stock, or a loan to a business concern, including a wholly-owned subsidiary, or to make a sub-grant with a portion of the OCS funds, must include in its application a written agreement with the third party that commits the latter to the following:

1. A minimum of 75% of the jobs to be created under the grant will be for low-income individuals.
2. The grantee will have authority to screen applicants for jobs to be filled by low-income individuals and to verify their eligibility.
3. The grantee will have a seat on the Board of Directors of the third party's firm if the grantee's investment equals 25% or more of the firm's assets. (Not applicable to loans made to third parties.)
4. Reports will be made on a quarterly basis to the grantee on the use of grant funds.
5. A procedure will be developed to assure that there are no duplicative counts of jobs created.
6. Detailed information will be provided on how the grant funds will be used by the third party. In addition, the agreement will provide details on how the grantee will provide support and technical assistance to the third party in

areas of recruitment and retention of low-income individuals.

OCS will make up to two grants under this set-aside with a maximum of \$750,000 to be granted for each project. Only one grant will be made to address problems in a particular target area.

Applications for these set-aside funds which are not funded due to the limited amount of funds available also will be considered competitively within the larger pool of eligible applications under priority area 1.1.

Priority Area 2.0 The Planning and Development of Rural Housing (including rental housing for low-income individuals) and Community Facilities

Priority Area 2.1 Rural Housing (including rental housing for low-income individuals)

The purpose of this priority area is to assist low-income residents in rural communities by providing grants to eligible applicants to: (a) Provide technical assistance to help low-income families and individuals more effectively utilize existing local, State and Federal housing assistance programs; and (b) develop innovative ways to meet the housing needs of low-income people, e.g. the rehabilitation or repair of existing substandard housing units for occupancy by low-income residents, the conversion of non-residential buildings to low-income residential use, and the purchase of homes by low-income people.

OCS encourages applications that will assist low-income homeowners to improve their housing through self-help rehabilitation. These applications should not include projects which can be funded through other existing Federal programs.

OCS also encourages the submission of proposals whose aim is to assist homeless families and those at risk of homelessness. Innovative ways to address housing needs of homeless families is of particular interest to OCS.

Projects should produce the following types of tangible improvements and benefits related to housing conditions for rural poor people: Interior or exterior structural repairs including weatherization and alternative energy systems; jobs created for local unskilled residents while assuring quality work; technical assistance and professional services related to housing and community planning by community-based design and planning organizations. (Such projects should be conducted with maximum use of voluntary services of professional and community personnel, and development of innovative housing strategies to help

low-income rural residents acquire housing.)

Applications calling for new construction or "gut" rehabilitation will only be considered if the application documents that there is insufficient existing housing stock that can be economically rehabilitated.

Funds will not be available for the repair or rehabilitation of low-income rental housing unless the structure is either occupied by a low-income owner or the properties to be repaired are (a) owned by a private non-profit organization and (b) covered by a written agreement which will ensure continued occupancy by low-income people for at least three years after completion of repairs and rehabilitation.

Funds will not be available under this program priority area for projects that establish or expand a revolving loan fund.

Eligible applicants are States, public agencies or private non-profit organizations, including Historically Black Colleges and Universities.

OCS is particularly interested in receiving applications from such entities as rural housing development corporations, cooperatives, and other public and private organizations with proven accomplishments in the area of rural housing.

See part F, 6, for special instructions on developing a work program for this priority area.

Priority Area 2.2 Rural Community Facilities Development (Water and Waste Water Treatment Systems Development)

Funds will be provided under this priority area only for non-competitive continuation grants to the seven organizations which received grants under this priority area in FY 1990. Funds will be provided to the FY 1990 grantees based upon a report of satisfactory performance during the first nine months of the FY 1990 grant period.

Priority Area 3.0 Assistance for Migrants and Seasonal Farmworkers

The purpose of this priority area is to fund a limited number of projects which focus exclusively on the problems and special needs of migrants and seasonal farmworkers in order to improve their quality of life and advance self-sufficiency.

OCS will entertain proposals that directly meet farmworker needs in such areas as: Homelessness; crisis nutritional relief; the development of self-help systems of food production; emergency health and social services referral and assistance; home repair,

rehabilitation, and ownership; direct assistance to low-income farmworkers, including at-risk teenagers, to improve their job skills for them to qualify for long term and permanent full-time employment in agriculture; and/or assistance to low-income farmworkers, including at-risk teenagers, who wish to leave agricultural employment and find jobs in other lines of work. Linkages with the local JOBS program are encouraged wherever appropriate.

Applicants must provide quantifiable objectives for each of the above activities which will be included in the project. OCS encourages applicants to develop linkages with other public and private sector service providers who also are working with migrant and seasonal farmworkers or with issues affecting this target group.

For projects that relate to job skills and training, OCS will not consider applications proposing to use funds exclusively for classroom instruction. Placement must be an integral activity of any training project.

Applications submitted under this priority area must not contain requests for OCS funding for projects that would duplicate Community Services Block Grant funding or activities for which funding is available from other Federal agencies such as the Department of Labor, the Department of Agriculture's Food and Women, Infants and Children (WIC) programs, etc.

Eligible applicants are States, public agencies and private non-profit organizations including Historically Black Colleges and Universities.

See part F, 6, for special instructions on developing a work program for this priority area.

Priority Area 3.1 Assistance for Migrants and Seasonal Farmworkers (Set-Aside)

For Fiscal Year 1991, a fund of \$300,000 will be set aside for Historically Black Colleges and Universities to enable them to offer continuing education to migrants and seasonal farmworkers and to increase participant employment opportunities. Applicants must provide quantifiable objectives for each of the activities which will be included in the project. Applications which are not funded within this set-aside due to the limited amount of funds available will also be considered competitively within the larger pool of eligible applicants under priority area 3.0.

See part F, 6, for special instructions on developing a work program for this priority area under priority area 3.0.

Part C—Application Prerequisites

1. Eligible Applicants

Priority areas included in this Program Announcement have differing eligibility requirements. Therefore, eligible applicants are identified in the individual priority area descriptions found in part B, above.

2. Availability of Funds

a. FY 1991 Funds

The Office of Community Services expects to award funds by September 30, 1991 for new grants. The maximum amount of funds available for each Priority Area is summarized below:

Priority area	Fiscal year 1991 funds
1.0 Urban and Rural Community Economic Developments:	
1.1 Urban and Rural Community Economic Development (Operational).....	\$15,993,734
1.2 Urban and Rural Community Economic Development (HBCU Set-Aside).....	2,500,000
1.3 Urban and Rural Community Economic Development (Pre-development).....	500,000
1.4 Urban and Rural Community Economic Development (YOU Program Set-Aside).....	1,500,000
2.0 Planning and Development of Rural Housing and Community Facilities Development.....	4,098,947
3.0 Assistance for Migrants and Seasonal Farmworkers.....	2,724,961
3.1 Assistance for Migrants and Seasonal Farmworkers (Set-Aside).....	300,000

b. Grant Amounts

No more than the below stated amounts will be granted for projects under the Priority Areas as indicated:

Priority area	Funding unit
1.1.....	\$500,000
1.2.....	500,000
1.3.....	50,000
1.4.....	750,000
2.0.....	250,000
3.0.....	250,000
3.1.....	75,000

3. Project and Budget Periods

For Priority Areas 1.1, 1.2, and 1.4, applicants may request project and budget periods of up to 36 months and for Priority Areas 2.1, 3.0 and 3.1 up to 17 months. For Priority Area 1.3 applicants may request project and budget periods up to six months. By fully funding the projects in FY 91 funding stability in future years will be insured.

For Priority Area 2.2 only: FY 1990 grantees have been funded for a two-

year project period. Based upon a report of satisfactory performance during the first nine months of the FY 1990 grant period, FY 1991 funds will be provided to the seven FY 1990 grantees on a non-competitive basis for the period beginning October 1, 1991.

4. Mobilization of Resources

OCS will give favorable consideration in the review process to applicants who document public/private partnerships which mobilize cash and/or third-party in-kind contributions. (See part D, Criterion IV.)

5. Program Beneficiaries

Projects proposed for funding under this announcement must result in direct benefits to low-income people as defined in the most recent Annual Revision of Poverty Income Guidelines published by DHHS.

Attachment A to this announcement is an excerpt from the guidelines currently in effect (1991). Annual revisions of these guidelines are normally published in the *Federal Register* in February or early March of each year. Grantees will be required to apply the most recent guidelines throughout the project period. These revised guidelines also may be obtained at public libraries, Congressional offices, or by writing the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402.

No other government agency or privately-defined poverty guidelines are applicable for the determination of low-income eligibility for these OCS programs.

Note, however, that low-income individuals granted lawful temporary resident status under sections 245A or 210A of the Immigration and Nationality Act, as amended by the Immigration Reform and Control Act of 1986 (Public law 99-603) may not be eligible for direct or indirect assistance based on financial need under this program for a period of five years from the date such status was granted.

6. Number of Projects in Application

An application may contain only one project (although, except for Priority Area 1.4, activities undertaken may be in a number of communities or impact areas) and this project must be identified as responding to one of the program priority areas stated in this announcement. Applications which are not in compliance with this requirement will be ineligible for funding.

7. Multiple Submittals

There is no limit to the number of applications that can be submitted under a specific program priority area as long as each application contains a proposal for a different project. However, an applicant will receive only one grant in any Priority Area.

8. Sub-contracting or Delegating Projects

OCS does not fund projects where the role of the applicant is primarily to serve as a conduit for funds to organizations other than the applicant. The applicant must have a substantive role in the implementation of the project for which funding is requested.

Part D—Application Procedures

1. Availability of Forms

Attachments B, C and D contain all of the standard forms necessary for the application for awards under these OCS programs. These forms may be photocopied for the application.

Copies of the *Federal Register* containing this announcement are available at most local libraries and Congressional District Offices for reproduction. If copies are not available at these sources, they may be obtained by writing or telephoning the office listed under the section entitled "FOR FURTHER INFORMATION" at the beginning of this announcement.

For purposes of this announcement, all applicants will use SF-424, SF-424A, and SF-424B, regardless of the priority area governing the project. Applications proposing construction projects will also present all required financial data using SF-424A. Instructions for completing the SF-424, SF-424A, and SF-424B are found in Attachments B, C, and D.

Part F contains instructions for the project narrative. The project narrative will be submitted on plain bond paper along with the SF-424 and related forms.

Attachment J provides a checklist to aid applicants in preparing a complete application package for OCS.

The applicant must be aware that in signing and submitting the application for this award, it is certifying that it will comply with the Federal requirements concerning the drug-free workplace and debarment regulations set forth in Attachments E and F.

2. Application Submission

Applications must be submitted to ACF by the closing date. Refer to "Closing Date" at the beginning of this document for the specific date. Applications may be mailed to: Administration for Children and Families, Division of Grants

Management, 6th floor OFM/DGM, 370 L'Enfant Promenade, SW., Washington, DC 20447.

Hand-delivered applications are accepted during normal working hours of 8 a.m. to 4:30 p.m., Monday through Friday, on or prior to the established closing date at: Administration for Children and Families, Division of Grants Management, 6th Floor OFM/DGM, 901 D Street, SW., Washington, DC 20447.

An application will be considered to be received on time if sent on or before the closing date as evidenced by a legible U.S. Postal Service postmark or a legibly dated receipt from a commercial carrier. Private metered postmarks will not be considered acceptable as proof of timely mailing. Applications submitted by any means other than through the U.S. Postal Service or commercial carrier shall be considered as acceptable only if physically received at the above address before close of business on or before the deadline date.

Note: Applicants should note that the U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, applicants should check with their local post office. In some instances packages presented for mailing after a pre-determined time are postmarked with the next day's date. In other cases, postmarks are not routinely placed on packages. Applicants are cautioned to verify that there is a date on the package, and that it is the correct date of mailing, before accepting a receipt.

Applications which have a postmark later than the closing date, or which are hand-delivered after the closing date, will be returned to the sender without consideration in the competition.

One signed original application and four copies is required. The first page of the SF-424 must contain in the lower right-hand corner, a designation indicating under which priority area funds are being requested (See Part F.11).

3. Intergovernmental Review

This program is covered under Executive Order 12372, "Intergovernmental Review of Federal Programs," and 45 CFR part 100, "Intergovernmental Review of Department of Health and Human Services Programs and Activities." Under the Order, States may design their own processes for reviewing and commenting on proposed Federal assistance under covered programs.

All States and Territories except Alaska, Idaho, Kansas, Louisiana, Minnesota, Nebraska, Virginia, American Samoa and Palau have elected to participate in the Executive Order process and have established Single Points of Contact (SPOCs). Applicants from these nine jurisdictions need take no action regarding E.O.

12372. Applicants for projects to be administered by Federally-recognized Indian Tribes are also exempt from the requirements of E.O. 12372. Otherwise, applicants should contact their SPOCs as soon as possible to alert them of the prospective applications and receive any necessary instructions. Applicants must submit any required material to the SPOCs as soon as possible so that the program office can obtain and review SPOC comments as part of the award process. It is imperative that the applicant submit all required materials, if any, to the SPOC and indicate the date of this submittal (or the date of contact if no submittal is required) on the Standard Form 424, item 16a.

Under 45 CFR 100.8(a)(2), a SPOC has 60 days from the application deadline date to comment on proposed new or competing continuation awards. However, because applications are due 60 days from the date of the announcement and the grants are to be awarded in September, there is not sufficient time to allow for a complete SPOC comment period. Therefore, we have reduced the comment period to July 5, 1991.

SPOCs are encouraged to eliminate the submission of routine endorsements as official recommendations. Additionally, SPOCs are requested to clearly differentiate between mere advisory comments and those official State process recommendations which they intend to trigger the "accommodate or explain" rules.

When comments are submitted directly to ACF, they should be addressed to: Department of Health and Human Services, Administration for Children and Families, Division of Grants Management, 6th floor, OFM/DGM, 370 L'Enfant Promenade, SW, Washington, DC 20447.

A list of the Single Points of Contact for each State and Territory is included as appendix H of this announcement.

4. Application Consideration

Applications which meet the screening requirements in sections 5 a and b below will be reviewed competitively. Such applications will be referred to reviewers for a numerical score and explanatory comments based solely on responsiveness to program priority area guidelines and evaluation criteria published in this announcement.

Applications submitted under all priority areas will be reviewed by persons outside of the OCS unit which will be directly responsible for programmatic management of the grant. The results of these reviews will assist the Director and OCS program staff in

considering competing applications. Reviewers' scores will weigh heavily in funding decisions but will not be the only factors considered. Applications generally will be considered in order of the average scores assigned by reviewers. However, highly ranked applications are not guaranteed funding since other factors are taken into consideration, including, but not limited to, the timely and proper completion of projects funded with OCS funds granted in the last five (5) years; Comments of reviewers and government officials; staff evaluation and input; geographic distribution; previous program performance of applicants; compliance with grant terms under previous DHHS grants; audit reports; investigative reports; and applicant's progress in resolving any final audit disallowances on previous OCS or other Federal agency grants.

OCS reserves the right to discuss applications with other Federal or non-Federal funding sources to ascertain the applicant's performance record.

5. Criteria for Screening Applicants

a. Initial Screening

All applications that meet the published deadline for submission will be screened to determine completeness and conformity to the requirements of this announcement. Only those applications meeting the following requirements will be reviewed and evaluated competitively. Others will be returned to the applicants with a notation that they were unacceptable.

(1) The application must contain a Standard Form 424 "Application for Federal Assistance" (SF-424), a budget (SF-424A), and signed "Assurances" (SF-424B) completed according to instructions published in part F and Attachments B, C, and D of this Program Announcement.

(2) A project narrative must also accompany the standard forms.

(3) The SF-424 and the SF-424B must be signed by an official of the organization applying for the grant who has authority to obligate the organization legally.

(4) The application must be submitted for consideration under one priority area only.

b. Pre-rating Review

Applications which pass the initial screening will be forwarded to reviewers and/or OCS staff prior to the programmatic review to verify that the applications comply with this Program Announcement in the following areas:

(1) *Eligibility:* Applicant meets the

eligibility requirements for the priority area under which funds are being requested. Proof of non-profit status must be included in the Appendices of the Project Narrative where applicable. Applicants must also be aware that the applicant's legal name as required in SF-424 (Item 5) must match that listed as corresponding to the Employer Identification Number (Item 6).

(2) *Number of Projects:* The application contains only one project which responds to one of the priority areas in this announcement.

(3) *Grant amount:* The amount of funds requested does not exceed the limits indicated in part C, 2, b for the appropriate priority area.

(4) *Cooperative Partnership Agreement* (Priority Area 1.4 only)

(a) The application contains a written agreement signed by the applicant and the YOU Program grantee in the target service area; and

(b) The agreement contains specific language confirming that the project will be carried out in the target area.

(5) *Written Agreement When Applicant Proposes to Make Equity Investment, Loan, or Sub-Grant:* (Priority Areas 1.1 and 1.4 only): The application contains a written agreement signed by the applicant and the third party which includes all of the elements required in part B, Priority Area 1.1 and Priority 1.4.

An application may be disqualified from the competition and returned if it does not conform to one or more of the above requirements.

c. Evaluation Criteria

Applications which pass the pre-rating review will be assessed and scored by reviewers. Each reviewer will give a numerical score for each application reviewed. These numerical scores will be supported by explanatory statements on a formal rating form describing major strengths and weaknesses under each applicable criterion published in the announcement.

The in-depth evaluation and review process will use the following criteria coupled with the specific requirements contained under each program priority area as described in part B.

(Note: The following review criteria reiterate collection of information requirements contained in part F of this announcement. These requirements are approved under OMB Control Number 0970-0062.)

6. Criteria for Review and Evaluation of All Applications except Priority Area 1.3

(a) *Criterion I: Analysis of Need* (Maximum: 5 points)

The application documents that the project addresses a vital need in a distressed community and provides statistics and other data and information in support of its contention.

(b) *Criterion II: Organizational Experience in Program Area and Staff Responsibilities* (Maximum: 15 points)

(i) *Organizational Experience in Program Area (sub-rating: 0-5 points).* Documentation provided indicates that projects previously undertaken have been relevant and effective and have provided permanent benefits to the low-income population.

Organizations which propose providing training and technical assistance have detailed competence in the specific program priority area and as a deliverer with expertise in the fields of training and technical assistance. If applicable, information provided by these applicants also addresses related achievements and competence of each cooperating or sponsoring organization.

Applicable to Priority Areas 1.1, 1.2, and 1.4

The applicant has demonstrated: The ability to implement major activities in such areas as business development, commercial development, physical development, or financial services; the ability to mobilize dollars from sources such as the private sector (corporations, banks, etc.), foundations, the public sector, including State and local governments, or individuals; that it has a sound organizational structure and proven organizational capability; and an ability to develop and maintain a stable program in terms of business, physical or community development activities that will provide needed permanent jobs, services, business development opportunities, and other benefits to community residents.

(ii) *Staff Skills, Resources and Responsibilities (sub-rating: 0-10 points).* The application describes in brief resume form the experience and skills of the project director who is not only well qualified, but his/her professional capabilities are relevant to the successful implementation of the project. If the key staff person has not yet been identified, the application contains a comprehensive position description which indicates that the responsibilities to be assigned to the project director are relevant to the

successful implementation of the project. The applicant has adequate facilities and resources (i.e. space and equipment) to successfully carry out the work plan. The assigned responsibilities of the staff are appropriate to the tasks identified for the project and sufficient time of senior staff will be budgeted to assure timely implementation and cost effective management of the project.

(c) Criterion III: Project Implementation
(Maximum: 25 points)

The work plan, or Business Plan where appropriate, is both sound and feasible. The project is responsive to the needs identified in the Analysis of Need. It sets forth realistic quarterly time targets by which the various work tasks will be completed. Critical issues or potential problems that might impact negatively on the project are defined and the project objectives can be reasonably attained despite such potential problems.

(d) Criterion IV A: (Applicable to Priority Area 1.1, 1.2, and 1.4) Significant and Beneficial Impact (Maximum: 30 points)

(i) Significant and Beneficial Impact (sub-rating: 0-15 points). The application contains a full and accurate description of the proposed use of the requested financial assistance. The proposed project will produce permanent and measurable results that will reduce the incidence of poverty in the community. The OCS grant funds, in combination with private and/or other public resources, are targeted into low-income communities, distressed communities, and/or designated enterprise zones.

(ii) Cost-per-job (sub-rating: 0-10 points). During the project period the proposed project will create new, permanent jobs or maintain permanent jobs for low-income residents at a cost-per-job below \$15,000 in OCS funds.

[Note: The maximum number of points will be given to those applicants proposing cost-per-job estimates of \$5,000 or less of OCS requested funds. Higher cost-per-job estimates will receive correspondingly fewer points.]

(iii) Career Development Opportunities (sub-rating: 0-5 points). The application documents that the jobs to be created for low-income people have career development opportunities which will promote self-sufficiency.

Criterion IV B: (Applicable to Priority Areas 2.1, 2.2, 3.0 and 3.1)

Significant and Beneficial Impact
(Maximum: 30 points)

The application contains a full and accurate description of the proposed use

of the requested financial assistance. The proposed project will produce permanent and measurable results that will reduce the incidence of poverty in the areas targeted and significantly enhance the self sufficiency of program participants. Results are quantifiable in terms of program area expectations, e.g., number of units of housing rehabilitated, agricultural and non-agricultural job placements, etc. The OCS grant funds, in combination with private and/or other public resources, are targeted into low-income and/or distressed communities and/or designated enterprise zones.

(e) Criterion V: Public-Private Partnerships (Maximum: 20 points)
(Applicable to All Priority Areas Except 1.4.)

The application documents that the applicant will mobilize from public and/or private sources cash and/or in-kind contributions valued at an amount equal to the OCS funds requested. Applicants documenting that the value of such contributions will be at least equal to the OCS funds requested will receive the maximum number of points for this Criterion. Lesser contributions will be given consideration based upon the value documented. Applicants under Priority Area 1.2 who are proposing to enter into a partnership with Historically Black Colleges and Universities are deemed to have fully met this criterion and will receive the maximum number of points.

(f) Criterion V: Public-Private Partnerships (Maximum: 20 points)
(Applicable to Priority Area 1.4 only.)

(1) Mobilization of resources (sub-rating: 10 points). The application documents that the applicant will mobilize from public and/or private sources cash and/or in-kind contributions valued at an amount equal to half of the OCS funds requested. Applicants documenting that the value of such contributions will be at least equal to half of the OCS funds requested will receive the maximum points (10) of this subcriterion.

(2) Integration/coordination of services (sub-rating: 10 points). The written agreement between the applicant and the organization which received FY 90 funding under the Department of Labor's Youth Opportunities Unlimited Program indicates that the actions to be taken to integrate/coordinate services relate directly to the project for which funds are being requested. The agreement clearly describes the following: (1) The goals and objectives that the applicant and the YOU program grantees expect to achieve through their collaboration; (2) a

number of specific activities/actions that will be taken to integrate/coordinate services on an on-going basis; (3) the mechanism(s) to be used in integrating/coordinating activities; (4) how those activities will be significant in relation to the goals and objectives to be achieved through the collaboration; and (5) how those activities will be significant in relation to their impact on the success of the OCS-funded project.

(g) Criterion VI: Budget Appropriateness and Reasonableness (Maximum: 5 points)

Funds requested are commensurate with the level of effort necessary to accomplish the goals and objectives of the project. The application includes a detailed budget break-down for each of the budget categories in the SF-424A. The applicant presents a reasonable administrative cost. The estimated cost to the government of the project also is reasonable in relation to the anticipated results.

7. Criteria for Review and Evaluation of Applications Submitted Under Priority Area 1.3

a. Criterion I: Organizational Capability and Capacity (Maximum: 20 points)

(1) Organizational experience in program area (sub-rating: 5 points). Where the applicant has a history of prior activity or achievement in economic development, the documentation must address the relevance and effectiveness of projects undertaken, especially their cost effectiveness and the relevance and effectiveness of any services and the permanent benefits provided to the targeted population. Applicants must also indicate why they feel that they can successfully implement the project for which they are requesting funding.

(2) Management capacity (sub-rating: 5 points). Applicants must fully detail their ability to implement sound and effective management practices and if they have been recipients of other Federal or other governmental grants, they must also detail that they have consistently complied with financial and program progress reporting and audit requirements. Applicants should submit any available documentation on their management practices and progress reporting procedures along with a certification by a Certified or Licensed Public Accountant as to the sufficiency of the applicant's financial management system to protect adequately any Federal funds awarded under the application submitted.

(3) *Staffing (sub-rating: 5 points).* The application must fully describe (e.g. resumes) the experience and skills of key staff showing that they are not only well qualified but that their professional capabilities are relevant to the successful implementation of the project.

(4) *Staffing responsibilities (sub-rating: 5 points).* The application must describe how the assigned responsibilities of the staff are appropriate to the tasks identified for the project.

b. Criterion II: Significant and beneficial impact (Maximum: 35 points)

A work plan funded under this announcement must show that there is a clearly identified need in a low-income area which is not being effectively addressed currently.

Project funds under this announcement must be used to develop a Business Plan for a project which would produce permanent and measurable results that will reduce the incidence of poverty in the areas targeted and mobilize non-Discretionary Program dollars from private sector individuals, corporations, and foundations if the project is implemented. The project around which the Business Plan is developed with the use of OCS grant funds, must be targeted into low-income communities, and/or designated enterprise zones, with the goal of increasing the economic conditions and social self-sufficiency of residents. Activities must be designated to achieve the specific Program Priority Area 1.3 objectives as defined in this program announcement.

c. Criterion III: Project implementation and evaluation (Maximum: 30 points)

(1) *Project Implementation Component (sub-rating: 25 points).* The application must contain a detailed and specific work plan that is both sound and feasible. It must set forth realistic quarterly time targets by which the various work tasks will be completed. Because quarterly time schedules are used by OCS as a key instrument to monitor progress, failure to include these time targets may seriously reduce an applicant's point score in this criterion. It must define critical issues or potential problems that might impact negatively on the project and it must indicate how the project objectives will be attained notwithstanding any such potential problems.

(2) *Evaluation Component (sub-rating: 5 points).* All proposals should include a self-evaluation component. The evaluation data collection and analysis procedures should be specifically

oriented to assess the degree to which the stated goals and objectives are achieved. Qualitative and quantitative measures reflective of the scheduling and task delineation in (1) above should be used to the maximum extent possible. This component should indicate the ways in which the potential grantee would integrate qualitative and quantitative measures of accomplishment and specific data into its program progress reports that are required by OCS from all grantees.

d. Criterion IV: Budget appropriateness and reasonableness (Maximum: 15 points)

Each applicant should carefully review the requirements of Program Priority Area 1.3 and the budget submitted must coincide with those requirements.

The proposal request for funds must include a detailed budget breakout for each of the pertinent budget categories in part III, section B of the SF-424. (Please identify any positions for which less than full-time funding is requested.)

Part E—Contents of Application and Receipt Process

1. Contents of Application

Each application, whether involving construction or not, should include one original and four additional copies of the following:

- A signed "Application for Federal Assistance" (SF-424);
- "Budget Information-Non-Construction Program" (SF-424A);
- A signed "Assurances-Non-Construction Program" (SF-424B);
- A Project Narrative consisting of the following elements preceded by a consecutively numbered Table of Contents that will describe the project in the following order:
 - Eligibility Confirmation
 - Analysis of Need
 - Organizational Experience and Staff Responsibilities
 - Work Program
 - Appendices, including By-Laws; Articles of Incorporation; proof of non-profit status where applicable; resumes; Single Point of Contact comments; and, for Priority Area 1.4 only, a written agreement signed by the applicant and an organization funded by the Department of Labor in FY 90 under the YOU Program.

The original must bear the signature of the authorizing representative of the applicant organization.

The total number of pages for the entire application package should not exceed 50 pages.

Applications should be submitted in ring-binders that will allow for easy separation and reassembly.

Applications must be uniform in composition since OCS may find it necessary to duplicate them for review purposes. Therefore, applications must be submitted on white 8½ X 11 inch paper only. They must not include colored, oversized or folded materials. Do not include organizational brochures or other promotional materials, slides, films, clips, etc. in the proposal. They will be discarded, if included.

2. Acknowledgement of Receipt

All applicants will receive an acknowledgement postcard with an assigned identification number. Applicants are requested to supply a self-addressed mailing label with their application which can be attached to this acknowledgement postcard. This number and the program priority area letter code must be referred to in all subsequent communication with OCS concerning the application. If an acknowledgement is not received within three weeks after the deadline date, please notify ACF by telephone (202) 401-9230.

Part F—Instructions for Completing Application Package

(Approved by the Office of Management and Budget under Control Number 0970-0062. The standard forms attached to this announcement shall be used to apply for funds for all priority areas described in this announcement.)

It is suggested that you reproduce the SF-424 and SF-424A, and type your application on the copies. If an item on the SF-424 cannot be answered or does not appear to be related or relevant to the assistance requested, write "NA" for "Not Applicable."

Prepare your application in accordance with the standard instructions given in Attachments B and C corresponding to the forms, as well as the OCS specific instructions set forth below:

1. SF-424 "Application for Federal Assistance"

Item

1. For the purposes of this announcement, all projects are considered "Applications"; there are no "pre-applications." Also for the purposes of this announcement, construction projects are those which involve major renovations or construction. All others are considered nonconstruction. Check the appropriate box under "Application."

5 and 6. The legal name of the applicant must match that listed as corresponding to the Employer Identification Number. Where the applicant is a previous Department of Health and Human Services grantee, enter the Central Registry System Employee Identification Number (CRS/EIN) and the Payment Identifying Number, if one has been assigned, in the Block entitled "Federal Identifier" located at the top right hand corner of the form.

7. If the applicant is a non-profit corporation, enter "N" in the box and specify "non-profit corporation" in the space marked "Other." Proof of non-profit status, such as IRS determination or appropriate sections of the Articles of Incorporation, or By-laws, must be included as an appendix to the project narrative.

8. For the purposes of this announcement, all applications are "New" with the possible exceptions of those submitted under Priority Area 2.2. These applications should be marked "Continuation" if the applicants received funds from OCS year 1990 for similar projects.

9. Enter DHHS-ACF/OCS.

10. The Catalog of Federal Domestic Assistance number for OCS programs covered under this announcement is 93.032. The title is "CSBG Discretionary Awards."

11. The following letter program priority area designations must be used:
UR—for Priority Area 1.1. Urban and Rural Community Economic Development (Operational)

HB—for Priority Area 1.2. Urban and Rural Community Economic Development (HBCU Set-Aside)

PD—for Priority Area 1.3. Urban and Rural Community Economic Development (Pre-development)

UY—for Priority Area 1.4. Urban and Rural Community Economic Development (YOU Program Set-Aside)

RH—for Priority Area 2.1. Rural Housing Repairs and Rehabilitation

RF—for Priority Area 2.2. Rural Community Facilities Development (Water and Waste Water Treatment Systems Development)

MS—for Priority Area 3.0. Assistance for Migrants and Seasonal Farmworkers

HM—for Priority Area 3.1. Assistance for Migrants and Seasonal Farmworkers (Set-Aside)

2. SF-424A—"Budget Information—Non-Construction Programs"

See Instructions accompanying this form as well as the instructions set forth below:

In completing these sections, the "Federal Funds" budget entries will relate to the requested OCS discretionary funds only, and "Non-Federal" will include mobilized funds from all other sources—applicant, state, local, and other. Federal funds other than requested OCS discretionary funding should be included in "Non-Federal" entries.

The budget forms in SF-424A are only to be used to present grant administrative costs and major budget categories. Financial data that is generated as part of a project Business Plan or other internal project cost data must be separate and should appear as part of the project Business Plan or other project implementation data.

Sections A and D of SF-424A must contain entries for both Federal (OCS) and non-Federal (mobilized) funds. Section B contains entries for Federal (OCS) funds only. Clearly identified continuation sheets in SF-424A format should be used as necessary.

Section A—Budget Summary

Lines 1-4

Col. (a):

Line 1 Enter "CSBG Discretionary";

Col. (b):

Line 1 Enter "93.032";

Col. (c) and (d):

Columns (c) and (d) should be completed only by those applicants requesting funds for continuation grants (Priority Area 2.2 only), and show the amounts of funds which will be needed after the first 12 month period. All other applicants should leave columns (c) and (d) blank. Column (e)-(g)

For line 1, enter in columns (e), (f) and (g) the appropriate amounts needed to support the project for the budget period.

Line 5 enter the figures from Line 1 for all columns completed as required, (c), (d), (e), (f), and (g).

Section B—Budget Categories

Allowability of costs are governed by applicable cost principles set forth in 45 CFR parts 74 and 92. Columns (1) and (5):

In OCS applications, it is only necessary to complete Columns (1) and (5).

Column 1: Enter the total requirements for OCS Federal funds by the Object Class Categories of this section:

Personnel—Line 6a: Enter the total costs of salaries and wages of applicant/grantee staff only. Do not include costs of consultants or personnel costs of delegate agencies or of specific project(s) or businesses to be financed by the applicant.

Fringe Benefits—Line 6b: Enter the total costs of fringe benefits unless treated as part of an approved indirect cost rate which is entered on line 6j. Provide a breakdown of amounts and percentages that comprise fringe benefit costs.

Travel—Line 6c: Enter total costs of out-of-town travel by employees of the project. Do not enter costs for consultant's travel or local transportation. Provide justification for requested travel costs. (See Line 6h and Line 21 for additional instructions).

Equipment—Line 6d: Enter the total costs of all non-expendable personal property to be acquired by the project. "Non-expendable personal property" means tangible personal property having an acquisition cost per unit of \$500 or more for non-profit organizations and \$5,000 or more for public organizations and having a useful life of one year. An applicant may use its own definition of non-expendable personal property, provided that such a definition would at least include all tangible personal property as defined in the preceding sentence. (See Line 21 for additional requirements).

Supplies—Line 6e: Enter the total costs of all tangible personal property (supplies) other than that included on line 6d.

Contractual—Line 6f: Enter the total costs of all contracts, including (1) procurement contracts (except those which belong on other lines such as equipment, supplies, etc.) and (2) contracts with secondary recipient organizations including delegate agencies and specific project(s) or businesses to be financed by the applicant. Also include any contracts with organizations for the provision of technical assistance. Do not include payments to individual service contractors on this line. If available at the time of application, attach a list of contractors indicating the name of the organization, the purpose of the contract and the estimated dollar amount of the award. If the name of contractor, scope of work, or estimated total are not available or have not been negotiated, include these in Line h, "Other". Travel costs for the Executive Director or Project Director to attend a two day national workshop in Washington, DC should be included.

Note: Whenever the applicant/grantee intends to delegate part of the program to another agency, the applicant/grantee must submit sections A and B of this form (SF-424A), completed for each delegate agency by agency title, along with the required supporting information referenced in the applicable instructions. The total costs of all

such agencies will be part of the amount shown on Line 6f. Provide back-up documentation identifying name of contractor, purpose of contract and major cost elements.

Construction—Line 6g: Enter the costs of renovation, repair, or new construction. Provide narrative justification and breakdown of costs.

Other—Line 6h: Enter the total of all other costs. Such costs, where applicable, may include but are not limited to insurance, food, medical and dental costs (noncontractual), fees and travel paid directly to individual consultants, local transportation (all travel which does not require per diem is considered local travel), space and equipment rentals, printing and publication, computer use, training costs, including tuition and stipends, training service costs including wage payments to individuals and supportive service payments, and staff development costs.

Total Direct Charges—Line 6i: Show the total of Lines 6a through 6h.

Indirect Charges—Line 6j: Enter the total amount of indirect costs. This line should be used only when the applicant currently has an indirect cost rate approved by the Department of Health and Human Services or another Federal agency. With the exception of local governments, applicants should enclose a copy of the current rate agreement if it was negotiated with a Federal agency other than the Department of Health and Human Services.

If the applicant organization is in the process of initially developing or renegotiating a rate, it should immediately, upon notification that an award will be made, develop a tentative indirect cost rate proposal based on its most recently completed fiscal year in accordance with the principles set forth in the pertinent DHHS Guide for Establishing Indirect Cost Rates, and submit it to the appropriate DHHS Regional Office.

It should be noted that when an indirect cost rate is requested, those costs included in the indirect cost pool should not be also charged as direct costs to the grant.

Totals—Line 6k: Enter the total amounts of Lines 6i and 6j. The total amount shown in section B, Column (5), Line 6k, should be the same as the amount shown in section A, Line 5, Column (e).

Program Income—Line 7: Enter the estimated amount of income, if any, expected to be generated from this project. Separately show expected program income generated from OCS support and income generated from other mobilized funds. Do not add or

subtract this amount from the budget total. Show the nature and source of income in the program narrative statement.

Column 5: Carry totals from Column 1 to Column 5 for all line items.

Section C—Non-Federal Resources

This section is to record the amounts of "non-Federal" resources that will be used to support the project. "Non-Federal" resources mean other than OCS funds for which the applicant is applying. Therefore, mobilized funds from other Federal programs, such as the Job Training Partnership Act program, should be entered on these lines. Provide a brief listing of the non-Federal resources on a separate sheet and describe whether it is a grantee-incurred cost or a third-party in-kind contribution. The firm commitment of these resources must be documented and submitted with the application in order to be given credit in the Public-Private Partnerships criterion.

Except in unusual situations, this documentation must be in the form of letters of commitment from the organization(s)/individuals from which funds will be received.

Line 8:

Column (a) enter the project title.

Column (b): Enter the amount of contributions to be made by the applicant to the project.

Column (c): Enter the State contribution. If the applicant is a State agency, enter the non-Federal funds to be contributed by the State other than the applicant.

Column (d): Enter the amount of cash and in-kind contributions to be made from all other sources.

Column (e): Enter the total of columns (b), (c), and (d).

Lines 9, 10, and 11 should be left blank.

Line 12:

Carry the total of each column of Line 8, (b) through (e). The amount in Column (e) should be equal to the amount on section A, Line 5, Column (f).

Section D—Forecasted Cash Needs

Line 13—Enter the amount of Federal (OCS) cash needed for this grant, by quarter, during the budget period.

Line 14—Enter the amount of cash from all other sources needed by quarter during the budget period.

Line 15—Enter the total of Lines 13 and 14.

Section E—Budget Estimates of Federal Funds Needed for Balance of Project(s)

To be completed by applicants applying under Priority Area 2.2 only.

Section F—Other Budget Information

Line 21—Use this space and continuation sheets as necessary to fully explain and justify the major items included in the budget categories shown in section B. Include sufficient detail to facilitate determination of allowability, relevance to the project, and cost benefits. Particular attention must be given to the explanation of any requested direct cost budget item which requires explicit approval by the Federal agency. Budget items which require identification and justification shall include, but not be limited to, the following:

A. Salary amounts and percentage of time worked for those key individuals who are identified in the project narrative;

B. Any foreign travel;

C. A list of all equipment and estimated cost of each item to be purchased wholly or in part with grant funds which meet the definition of nonexpendable personal property provided on Line 6d, section B. Need for equipment must be supported in program narrative.

D. *Contractual*: Major items or groups of smaller items; and

E. *Other*: Group into major categories all costs for consultants, local transportation, space, rental, training allowances, staff training, computer equipment, etc. Provide a complete breakdown of all costs that make up this category.

Line 22—Enter the type of HHS or other Federal agency approved indirect cost rate (provisional, predetermined, final or fixed) that will be in effect during the funding period, the estimated amount of the base to which the rate is applied and the total indirect expense. Also, enter the date the rate was approved, where applicable. Attach a copy of the rate agreement if it was negotiated with a Federal agency other than the Department of Health and Human Services.

Line 23—Provide any other explanations and continuation sheets required or deemed necessary to justify or explain the budget information.

3. SF-424B "Assurances—Non-Construction"

Fill out, sign and date form found at Attachment D.

4. Restrictions on Lobbying Activities

Certification for Contracts Grants, Loans, and Cooperative Agreements: Fill out, sign and date form found at Attachment H.

5. Disclosure of Lobbying Activities, SF-LLL

Fill out, sign and date form found at Attachment H, if applicable.

6. Project Narrative

The project narrative must address the specific concerns mentioned under the relevant priority area description in part B. The narrative should provide information on how the application meets the evaluation criteria in part D, section 5 c of this Program Announcement and should follow the format below:

a. Eligibility Confirmation

This section must explain how the applicant has complied with each of the basic requirements listed in part D, 5 b (1)-(5), i.e. (1) that the applicant meets the eligibility requirements for the priority area under which funds are being requested; (2) the application contains only one project which responds to one of the priority areas in the announcement; (3) the amount of funds requested does not exceed the limits indicated in part C, section 2, b for the appropriate priority area; (4) [Priority Area 1.4 only] the application contains a written agreement signed by the applicant and the YOU Program grantee in the target area and the agreement contains specific language confirming the project will be carried out in the YOU Program target area.

b. Analysis of Need

The application should include a description of the target area and population to be served as well as a discussion of the nature and extent of the problem to be solved. It should also include documentation supportive of its needs assessment such as employment statistics, housing statistics, etc.

c. Organizational Experience and Staff Responsibilities

(i) *Organizational Experience.* Each applicant must document competence in the specific program priority area under which an application is submitted.

Documentation must be provided which addresses the relevance and effectiveness of projects previously undertaken in the specific priority area for which funds are being requested and especially their cost effectiveness, the relevance and effectiveness of any services provided, and the permanent benefits provided to the low-income population. Organizations which propose providing training and technical assistance must detail their competence in the specific program priority area and as a deliverer with expertise in the fields of training and technical

assistance. If applicable, information provided by these applicants must also address related achievements and competence of each cooperating or sponsoring organization.

Applicable to Priority Areas 1.1, 1.2, and 1.4

Applicants in these priority areas must also document a firmly established and quantifiable performance record that shows the following:

- The ability to implement major activities such as business development, commercial development, physical development, or financial services;
- Successful working relationships within the community including public officials, financial institutions, corporations, other community organizations and residents;
- A sound asset base and organizational structure in terms of (a) net worth, (b) management stability, and (c) organizational capability;
- An ability to develop and maintain a stable program in terms of business, physical or community development activities that will provide needed permanent jobs, services, business development opportunities and other benefits to community residents, and impact on community-wide economic problems and needs;
- Sound administrative and fiscal systems and controls, and the ability to establish and maintain partnerships with the private sector in such forms as financial support, volunteerism or executives on loan.

(ii) *Staff Skills, Resources and Responsibilities.*

The application must fully describe (e.g. a resume or position description) the experience and skills of the proposed project director showing that the individual is not only well qualified but that his/her professional capabilities are relevant to the successful implementation of the project.

The application must include statements regarding who will have the responsibilities of the chief executive officer, who will be responsible for grant coordination with OCS, and how the assigned responsibilities of the staff are appropriate to the tasks identified for the project. It must show clearly that sufficient time of senior staff will be budgeted to assure timely implementation and cost effective management of the project.

d. Work Program

The application must contain a detailed and specific work program, or Business Plan where appropriate, that is

both sound and feasible. (For those applicants submitting proposals under Priority Areas 1.1, 1.2, and 1.4 the Business Plan will be accepted in lieu of the work program.)

The work program will be evaluated according to Criteria III, IV, and V set forth in part D of this announcement: Project Implementation, Significant and Beneficial Impact, and Public-Private Partnerships.

Projects funded under this announcement must be designed to produce permanent and measurable results that will reduce the incidence of poverty in the areas targeted. The OCS grant funds, in combination with private and/or other public resources, must be targeted into low-income communities, distressed communities, and/or designated enterprise zones. Projects must be designed to achieve the specific program priority area objectives defined in this Program Announcement.

It must set forth realistic quarterly time targets by which the various work tasks will be completed. It must identify critical issues or potential problems that might impact negatively on the project and it must indicate how the project objectives will be attained despite such potential problems.

If an applicant is proposing a project which will affect a property listed in, or eligible for inclusion in the National Register of Historic Places, it must identify this property in the narrative and explain how it has complied with the provisions of Section 106 of the National Historic Preservation Act of 1966 as amended. If there is any question as to whether the property is listed in or eligible for inclusion in the National Register of Historic Places, the applicant should consult with the State Historic Preservation Officer. (See Attachment D: SF-424B, Item 13 for additional guidance.) The applicant should contact OCS early in the development of its application for instructions regarding compliance with the Act and data required to be submitted to the Department of Health and Human Services. Failure to comply with the cited Act may result in the application being ineligible for funding consideration.

Applicable to Priority Areas 1.1, 1.2, and 1.4

Applications submitted under Priority Areas 1.1, 1.2 and 1.4 which propose to use the requested OCS funds to make an equity investment or a loan to a business concern, including a wholly-owned subsidiary, or to make a subgrant with a portion of the OCS funds, must include a written agreement

between the community development corporation and the recipient of the grant funds which contains all of the elements listed in part B under the appropriate Priority Area.

Applications submitted under Priority Areas 1.1, 1.2, and 1.4 must include a complete Business Plan where it is appropriate to the project/venture. An application that does not include a Business Plan where one is appropriate may be disqualified and returned to the applicant.

In some cases a Business Plan may not be required under the Priority Areas. All applicants under the Priority Areas, however, must nevertheless submit the information which is required in sections 7 through 10, as set forth below.

The Business Plan is one of the major components that will be evaluated by OCS to determine the feasibility of an economic development project. It must be well prepared and address all the major issues noted herein.

The following guidelines show what should be included in order to produce a complete and professional Business Plan which makes an orderly presentation of the facts necessary to be judged responsive to the program announcement.

Because the guidelines were written to cover a variety of possibilities, rigid adherence to them is not possible nor even desirable for all projects. For example, a plan for a service business would not require a discussion of manufacturing nor product design.

The Business Plan should include the following:

1. *The business and its industry.* This section should describe the nature and history of the business and provide some background on its industry.

a. *The Business:* As a legal entity; the general business category.

b. *Description and Discussion of Industry:* Current status and prospects for the industry;

2. *Products and Services:* This section deals with the following:

a. *Description:* Describe in detail the products or services to be sold.

b. *Proprietary Position:* Describe proprietary features if any of the product, e.g. patents, trade secrets.

c. *Potential:* Features of the product or service that may give it an advantage over the competition.

3. *Market Research and Evaluation:* This section should present sufficient information to show that the product or service has a substantial market and can achieve sales in the face of competition.

a. *Customers:* Describe the actual and potential purchasers for the product or service by market segment.

b. *Market Size and Trends:* State the size of the current total market for the product or service offered.

c. *Competition:* An assessment of the strengths and weaknesses of competitive products and services.

d. *Estimated Market Share and Sales:* Describe the characteristics of the product or service that will make it competitive in the current market.

4. *Marketing Plan:* The marketing plan should detail the product, pricing, distribution, and promotion strategies that will be used to achieve the estimated market share and sales projections. The marketing plan must describe what is to be done, how it will be done and who will do it. The plan should address the following topics—Overall Marketing Strategy, Packaging, Service and Warranty, Pricing, Distribution and Promotion.

5. *Design and Development Plans:* If the product, process or service of the proposed venture requires any design and development before it is ready to be placed on the market, the nature and extent and cost of this work should be fully discussed. The section should cover items such as Development Status and Tasks, Difficulties and Risks, Product Improvement and New Products, and Costs.

6. *Manufacturing and Operations Plan:* A manufacturing and operations plan should describe the kind of facilities, plant location, space, capital equipment and labor force (part and/or full time and wage structure) that are required to provide the company's product or service.

7. *Management Team:* The management team is the key in starting and operating a successful business. The management team should be committed with a proper balance of technical, managerial and business skills, and experience in doing what is proposed. This section must include a description of: The key management personnel and their primary duties; compensation and/or ownership; the organizational structure; Board of Directors; management assistance and training needs; and supporting professional services.

8. *Overall Schedule:* A schedule that shows the timing and interrelationships of the major events necessary to launch the venture and realize its objectives. Prepare, as part of this section, a month-by-month schedule that shows the timing of such activities as product development, market planning, sales programs, and production and operations. Sufficient detail should be included to show the timing of the primary tasks required to accomplish such activity.

9. *Critical Risks and Assumptions:* The development of a business has risks and problems and the Business Plan should contain some explicit assumptions about them. Accordingly, identify and discuss the critical assumptions in the Business Plan and the major problems that will have to be solved to develop the venture. This should include a description of the risks and critical assumptions relating to the industry, the venture, its personnel, the product's market appeal, and the timing and financing of the venture.

10. *Community Benefits:* The proposed project must contribute to economic, community and human development within the project's target area. A section that describes and discusses the potential economic and non-economic benefits to low-income members of the community must be included as well as a description of the strategy that will be used to identify and hire individuals being served by public assistance programs and how linkages with community agencies/organizations administering the JOBS program will be developed.

The following project benefits must be described:

Economic

- Number of permanent jobs that will be created for low-income people during the grant period;
- Number of jobs to be created for low-income people that will have career development opportunities and a description of those jobs;
- Number of jobs that will be filled by individuals on public assistance;
- Ownership opportunities created for poverty-level project area residents;
- Specific steps to be taken to promote the self-sufficiency of program participants.

Other benefits which might be discussed are:

Human Development

- New technical skills development and associated career opportunities for community residents;
- Management development and training.

Community Development

- Development of community's physical assets;
- Provision of needed, but currently unsupplied, services or products to community;
- Improvement in the living environment.

11. *The Financial Plan:* The Financial Plan is basic to the development of a Business Plan. Its purpose is to indicate

the project's potential and the timetable for financial self-sufficiency. In developing the Financial Plan, the following exhibits must be prepared for the first three years of the business' operation:

- a. Profit and Loss Forecasts—quarterly for each year;
- b. Cash Flow Projections—quarterly for each year;
- c. Pro forma balance sheets—quarterly for each year;
- d. Initial sources of project funds;
- e. Initial uses of project funds; and
- f. Any future capital requirements and sources.

Applicable to Priority Area 2.1 Only

Each applicant must include a full discussion of the project including the following information:

- Basic Housing Data for Targeted Area.* Information on the number of sub-standard housing units available to low-income people in the target area, deficiencies of the housing units to be repaired, i.e., lack of or inadequate plumbing, upgrading of electrical systems, etc., new construction inventory, property values, rents and mortgage rates. While specific census data may be included, this information must be project specific. Applicants must show that other Federal programs do not exist to address the rehabilitation needs of the targeted area.
- Priorities.* Provide a rationale for the strategies and priorities for which OCS support is requested.
- Participant Application Process.* A description of the participant application process including: (a) Verification of participant need and income eligibility, (b) proposed diagnostic repair forms and contract bid procedures (where applicable), and (c) completion verification and quality workmanship assurance procedures.
- Types of Work to be Performed.* The quantitative and qualitative measures in the work plan should reflect the types of work to be performed, e.g., (a) technical assistance and training for each proposed organization/community; and/or (b) repairs or rehabilitation or construction work, noting which types of work will be done in order to bring properties up to minimum housing standards, inspection procedures and construction schedules.

Applications proposing to repair or rehabilitate low-income rental housing (see part B, Priority Area 2.1, regarding restrictions) must state the current rents for the units in question as well as what

rents will be charged for the rehabilitated units. Applicants should also state the number of low-income residents who will be helped to purchase or acquire adequate housing.

—*Job Creation.* Data regarding the number of direct jobs that will be created in the proposed project, noting the number of low-income residents that will be trained and/or placed in these jobs.

—*Public-Private Partnership.* A description of the degree of involvement by private sector individuals, corporations, and foundations in the implementation of the project and the amount of dollars which will be mobilized.

Applicable to Priority Area 2.2 Only

Each applicant must include a full discussion of how the proposed use of funds will enable low-income rural communities to develop the capability and expertise to establish and maintain affordable, adequate and safe water and waste water systems. Applicants must also discuss how they will disseminate information about water and waste water programs serving rural communities, and how they will better coordinate Federal, State, and local water and waste water program financing and development to assure improved service to rural communities.

Among the benefits that merit discussion under this priority are: The number of rural communities to be provided with technical and advisory services; the number of rural poor individuals who are expected to be directly served by applicant-supported improved water and waste water systems; the decrease in the number of inadequate water systems related to applicant activity; the number of newly established and applicant-supported treatment systems (all of the above may be expressed in terms of equivalent connection units); the increase in local capacity in engineering and other areas of expertise; and the amount of non-discretionary program dollars expected to be mobilized.

Applicable to Priority Areas 3.0 and 3.1

Each applicant must include a full discussion of the proposed project and how it will address one or more farmworker needs as described in part B.

Among the benefits which merit discussion under this priority area are: The number of farmworkers who are expected to improve their agricultural skills and thus improve their agricultural employment situation; the number of farmworkers and/or their dependents who will be afforded an opportunity to

continue their formal education; the number of farmworkers/families who will receive crisis nutritional relief, emergency health and social services referrals and assistance, and assistance in the development of self-help systems of food production; the number of farmworkers who are expected to gain longer term or permanent private sector employment in areas outside agriculture; the number of farmworkers who will receive help in the areas of housing; the number of housing units to be repaired or rehabilitated; the degree and kind of such help; the amount of non-Discretionary program dollars expected to be mobilized, and the degree of private sector involvement that will be utilized in developing and carrying out projects funded under this announcement.

Part G—Post Award Information and Reporting Requirements

Following approval of the applications selected for funding, notice of project approval and authority to draw down project funds will be made in writing. The official award document is the Notice of Grant Award which provides the amount of Federal funds approved for use in the project, the budget period for which support is provided, the terms and conditions of the award, the total project period for which support is contemplated, and the total financial participation from the award recipient.

General Conditions and Special Conditions (where the latter are warranted) which will be applicable to grants, are subject to the provisions of 45 CFR parts 74 and 92.

Grantees will be required to submit quarterly progress and financial reports (SF-269) as well as a final progress and financial report.

Grantees are subject to the audit requirements in 45 CFR parts 74 and 92 and OMB Circular A-128 or A-133. If an applicant will not be requesting indirect costs, it should anticipate in its budget request the cost of having an audit performed at the end of the grant period.

Section 319 of Public Law 101-121, signed into law on October 23, 1989, imposes new prohibitions and requirements for disclosure and certification related to lobbying on recipients of Federal contracts, grants, cooperative agreements, and loans. It provides limited exemptions for Indian tribes and tribal organizations. Current and prospective recipients (and their subcontractors and/or grantees) are prohibited from using appropriated funds for lobbying Congress or any Federal agency in connection with the award of a contract, grant, cooperative

agreement or loan. In addition, for each award action in excess of \$100,000 (or \$150,000 for loans) the law requires recipients and their subtier contractors and/or subgrantees (1) to certify that they have neither used nor will use any appropriated funds for payment to lobbyists, (2) to submit a declaration setting forth whether payments to lobbyists have been or will be made out of nonappropriated funds and, if so, the name, address, payment details, and purpose of any agreements with such lobbyists whom recipients or their subtier contractors or subgrantees will pay with the nonappropriated funds and (3) to file quarterly up-dates about the use of lobbyists if an event occurs that materially affects the accuracy of the information submitted by way of declaration and certification. The law establishes civil penalties for noncompliance and is effective with respect to contracts, grants, cooperative agreements and loans entered into or made on or after December 23, 1989. See Attachment H for certification and disclosure forms to be submitted with the applications for this program.

Attachment I indicates the regulations which apply to all applicants/grantees under the Discretionary Grants Program.

Dated: May 24, 1991.

Eunice S. Thomas,

Director, Office of Community Services.

Attachment A—1991 Poverty Income Guidelines for all States (Except Alaska and Hawaii) and the District of Columbia

Size of family unit	Poverty guideline
1.....	\$6,620
2.....	8,880
3.....	11,140
4.....	13,400
5.....	15,660
6.....	17,920
7.....	20,180
8.....	22,440

For family units with more than 8 members, add \$2,260 for each additional member.

Poverty Income Guidelines for Alaska

Size of family unit	Poverty guideline
1.....	\$8,290
2.....	11,110
3.....	13,930
4.....	16,750
5.....	19,570

Size of family unit	Poverty guideline
6.....	22,390
7.....	25,210
8.....	28,030

For family units with more than 8 members, add \$2,820 for each additional member.

Poverty Income Guidelines for Hawaii

Size of family unit	Poverty guideline
1.....	\$7,610
2.....	10,210
3.....	12,810
4.....	15,410
5.....	18,010
6.....	20,610
7.....	23,210
8.....	25,810

For family units with more than 8 members, add \$2,600 for each additional member.

BILLING CODE 4150-04-M

Attachment B—SF 424, Application for Federal Assistance and Instructions for the SF 424

OMB Approval No. 0348-0043

APPLICATION FOR
FEDERAL ASSISTANCE

1. TYPE OF SUBMISSION: Application <input type="checkbox"/> Construction <input type="checkbox"/> Construction <input type="checkbox"/> Non-Construction <input type="checkbox"/> Non-Construction		2. DATE SUBMITTED	Applicant Identifier
3. DATE RECEIVED BY STATE		State Application Identifier	
4. DATE RECEIVED BY FEDERAL AGENCY		Federal Identifier	

5. APPLICANT INFORMATION Legal Name:		Organizational Unit:	
Address (give city, county, state, and zip code):		Name and telephone number of the person to be contacted on matters involving this application (give area code)	

6. EMPLOYER IDENTIFICATION NUMBER (EIN): <div style="border: 1px solid black; width: 100px; height: 20px; margin: 5px 0;"></div>	7. TYPE OF APPLICANT: (enter appropriate letter in box) <input type="checkbox"/> A. State H. Independent School Dist. B. County I. State Controlled Institution of Higher Learning C. Municipal J. Private University D. Township K. Indian Tribe E. Interstate L. Individual F. Intermunicipal M. Profit Organization G. Special District N. Other (Specify): _____
8. TYPE OF APPLICATION: <input type="checkbox"/> New <input type="checkbox"/> Continuation <input type="checkbox"/> Revision If Revision, enter appropriate letter(s) in box(es): <input type="checkbox"/> <input type="checkbox"/> A. Increase Award B. Decrease Award C. Increase Duration D. Decrease Duration Other (specify): _____	9. NAME OF FEDERAL AGENCY:

10. CATALOG OF FEDERAL DOMESTIC ASSISTANCE NUMBER: <div style="border: 1px solid black; width: 100px; height: 20px; margin: 5px 0;"></div> TITLE:	11. DESCRIPTIVE TITLE OF APPLICANT'S PROJECT: <div style="border: 1px solid black; height: 100px; margin: 5px 0;"></div>
12. AREAS AFFECTED BY PROJECT (cities, counties, states, etc.): <div style="border: 1px solid black; height: 50px; margin: 5px 0;"></div>	

13. PROPOSED PROJECT: Start Date Ending Date	14. CONGRESSIONAL DISTRICTS OF: a. Applicant b. Project
---	--

15. ESTIMATED FUNDING:	16. IS APPLICATION SUBJECT TO REVIEW BY STATE EXECUTIVE ORDER 12372 PROCESS?																					
<table style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 15%;">a. Federal</td> <td style="width: 15%;">\$</td> <td style="width: 15%;">.00</td> </tr> <tr> <td>b. Applicant</td> <td>\$</td> <td>.00</td> </tr> <tr> <td>c. State</td> <td>\$</td> <td>.00</td> </tr> <tr> <td>d. Local</td> <td>\$</td> <td>.00</td> </tr> <tr> <td>e. Other</td> <td>\$</td> <td>.00</td> </tr> <tr> <td>f. Program Income</td> <td>\$</td> <td>.00</td> </tr> <tr> <td>g. TOTAL</td> <td>\$</td> <td>.00</td> </tr> </table>	a. Federal	\$.00	b. Applicant	\$.00	c. State	\$.00	d. Local	\$.00	e. Other	\$.00	f. Program Income	\$.00	g. TOTAL	\$.00	a. YES. THIS PREAPPLICATION/APPLICATION WAS MADE AVAILABLE TO THE STATE EXECUTIVE ORDER 12372 PROCESS FOR REVIEW ON DATE _____ b. NO <input type="checkbox"/> PROGRAM IS NOT COVERED BY E.O. 12372 <input type="checkbox"/> OR PROGRAM HAS NOT BEEN SELECTED BY STATE FOR REVIEW
a. Federal	\$.00																				
b. Applicant	\$.00																				
c. State	\$.00																				
d. Local	\$.00																				
e. Other	\$.00																				
f. Program Income	\$.00																				
g. TOTAL	\$.00																				

17. IS THE APPLICANT DELINQUENT ON ANY FEDERAL DEBT? <input type="checkbox"/> Yes If "Yes," attach an explanation. <input type="checkbox"/> No		
---	--	--

18. TO THE BEST OF MY KNOWLEDGE AND BELIEF, ALL DATA IN THIS APPLICATION/PREAPPLICATION ARE TRUE AND CORRECT, THE DOCUMENT HAS BEEN DULY AUTHORIZED BY THE GOVERNING BODY OF THE APPLICANT AND THE APPLICANT WILL COMPLY WITH THE ATTACHED ASSURANCES IF THE ASSISTANCE IS AWARDED		
a. Typed Name of Authorized Representative	b. Title	c. Telephone number
d. Signature of Authorized Representative	e. Date Signed	

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Standard Form 424 (REV 4-88)
Prescribed by OMB Circular A-102

INSTRUCTIONS FOR THE SF 424

This is a standard form used by applicants as a required facesheet for preapplications and applications submitted for Federal assistance. It will be used by Federal agencies to obtain applicant certification that States which have established a review and comment procedure in response to Executive Order 12372 and have selected the program to be included in their process, have been given an opportunity to review the applicant's submission.

- | Item: | Entry: | Item: | Entry: |
|-------|--|-------|--|
| 1. | Self-explanatory. | 12. | List only the largest political entities affected (e.g., State, counties, cities) |
| 2. | Date application submitted to Federal agency (or State if applicable) & applicant's control number (if applicable). | 13. | Self-explanatory. |
| 3. | State use only (if applicable). | 14. | List the applicant's Congressional District and any District(s) affected by the program or project. |
| 4. | If this application is to continue or revise an existing award, enter present Federal identifier number. If for a new project, leave blank. | 15. | Amount requested or to be contributed during the first funding/budget period by each contributor. Value of in-kind contributions should be included on appropriate lines as applicable. If the action will result in a dollar change to an existing award, indicate <i>only</i> the amount of the change. For decreases, enclose the amounts in parentheses. If both basic and supplemental amounts are included, show breakdown on an attached sheet. For multiple program funding, use totals and show breakdown using same categories as item 15. |
| 5. | Legal name of applicant, name of primary organizational unit which will undertake the assistance activity, complete address of the applicant, and name and telephone number of the person to contact on matters related to this application. | 16. | Applicants should contact the State Single Point of Contact (SPOC) for Federal Executive Order 12372 to determine whether the application is subject to the State intergovernmental review process. |
| 6. | Enter Employer Identification Number (EIN) as assigned by the Internal Revenue Service. | 17. | This question applies to the applicant organization, not the person who signs as the authorized representative. Categories of debt include delinquent audit disallowances, loans and taxes. |
| 7. | Enter the appropriate letter in the space provided. | 18. | To be signed by the authorized representative of the applicant. A copy of the governing body's authorization for you to sign this application as official representative must be on file in the applicant's office. (Certain Federal agencies may require that this authorization be submitted as part of the application.) |
| 8. | Check appropriate box and enter appropriate letter(s) in the space(s) provided:
— "New" means a new assistance award.
— "Continuation" means an extension for an additional funding/budget period for a project with a projected completion date.
— "Revision" means any change in the Federal Government's financial obligation or contingent liability from an existing obligation. | | |
| 9. | Name of Federal agency from which assistance is being requested with this application. | | |
| 10. | Use the Catalog of Federal Domestic Assistance number and title of the program under which assistance is requested. | | |
| 11. | Enter a brief descriptive title of the project. If more than one program is involved, you should append an explanation on a separate sheet. If appropriate (e.g., construction or real property projects), attach a map showing project location. For preapplications, use a separate sheet to provide a summary description of this project. | | |

Attachment C—SF 424A, Budget Information—Non-Construction Programs and Instructions for the
SF 424A

OMB Approval No. 0348-0044

BUDGET INFORMATION — Non-Construction Programs

SECTION A — BUDGET SUMMARY						
Grant Program Function or Activity (a)	Catalog of Federal Domestic Assistance Number (b)	Estimated Unobligated Funds		New or Revised Budget		
		Federal (c)	Non-Federal (d)	Federal (e)	Non-Federal (f)	Total (g)
1.		\$	\$	\$	\$	\$
2.						
3.						
4.						
5. TOTALS		\$	\$	\$	\$	\$

SECTION B — BUDGET CATEGORIES					
Object Class Categories	GRANT PROGRAM, FUNCTION OR ACTIVITY				Total (5)
	(1)	(2)	(3)	(4)	
a. Personnel	\$	\$	\$	\$	\$
b. Fringe Benefits					
c. Travel					
d. Equipment					
e. Supplies					
f. Contractual					
g. Construction					
h. Other					
i. Total Direct Charges (sum of 6a - 6h)					
j. Indirect Charges					
k. TOTALS (sum of 6i and 6j)	\$	\$	\$	\$	\$
7. Program Income	\$	\$	\$	\$	\$

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Standard Form 424A (4-88)
Prescribed by OMB Circular A-102

SECTION C - NON-FEDERAL RESOURCES					
(a) Grant Program	(b) Applicant	(c) State	(d) Other Sources	(e) TOTALS	
8.	\$	\$	\$	\$	
9.					
10.					
11.					
12. TOTALS (sum of lines 8 and 11)	\$	\$	\$	\$	
SECTION D - FORECASTED CASH NEEDS					
13. Federal	Total for 1st Year	1st Quarter	2nd Quarter	3rd Quarter	4th Quarter
	\$	\$	\$	\$	\$
14. Non-Federal					
15. TOTAL (sum of lines 13 and 14)	\$	\$	\$	\$	\$
SECTION E - BUDGET ESTIMATES OF FEDERAL FUNDS NEEDED FOR BALANCE OF THE PROJECT					
(a) Grant Program	FUTURE FUNDING PERIODS (Years)				
	(b) First	(c) Second	(d) Third	(e) Fourth	
16.	\$	\$	\$	\$	
17.					
18.					
19.					
20. TOTALS (sum of lines 16 -19)	\$	\$	\$	\$	
SECTION F - OTHER BUDGET INFORMATION (Attach additional Sheets if Necessary)					
21. Direct Charges:	22. Indirect Charges:				
23. Remarks					

INSTRUCTIONS FOR THE SF-424A

General Instructions

This form is designed so that application can be made for funds from one or more grant programs. In preparing the budget, adhere to any existing Federal grantor agency guidelines which prescribe how and whether budgeted amounts should be separately shown for different functions or activities within the program. For some programs, grantor agencies may require budgets to be separately shown by function or activity. For other programs, grantor agencies may require a breakdown by function or activity. Sections A,B,C, and D should include budget estimates for the whole project except when applying for assistance which requires Federal authorization in annual or other funding period increments. In the latter case, Sections A,B, C, and D should provide the budget for the first budget period (usually a year) and Section E should present the need for Federal assistance in the subsequent budget periods. All applications should contain a breakdown by the object class categories shown in Lines a-k of Section B.

**Section A. Budget Summary
Lines 1-4, Columns (a) and (b)**

For applications pertaining to a *single* Federal grant program (Federal Domestic Assistance Catalog number) and *not requiring* a functional or activity breakdown, enter on Line 1 under Column (a) the catalog program title and the catalog number in Column (b).

For applications pertaining to a *single* program *requiring* budget amounts by multiple functions or activities, enter the name of each activity or function on each line in Column (a), and enter the catalog number in Column (b). For applications pertaining to multiple programs where none of the programs require a breakdown by function or activity, enter the catalog program title on each line in Column (a) and the respective catalog number on each line in Column (b).

For applications pertaining to *multiple* programs where one or more programs *require* a breakdown by function or activity, prepare a separate sheet for each program requiring the breakdown. Additional sheets should be used when one form does not provide adequate space for all breakdown of data required. However, when more than one sheet is used, the first page should provide the summary totals by programs.

Lines 1-4, Columns (c) through (g.)

For *new applications*, leave Columns (c) and (d) blank. For each line entry in Columns (a) and (b), enter in Columns (e), (f), and (g) the appropriate amounts of funds needed to support the project for the first funding period (usually a year).

Lines 1-4, Columns (c) through (g.) (continued)

For *continuing grant program applications*, submit these forms before the end of each funding period as required by the grantor agency. Enter in Columns (c) and (d) the estimated amounts of funds which will remain unobligated at the end of the grant funding period only if the Federal grantor agency instructions provide for this. Otherwise, leave these columns blank. Enter in columns (e) and (f) the amounts of funds needed for the upcoming period. The amount(s) in Column (g) should be the sum of amounts in Columns (e) and (f).

For *supplemental grants and changes* to existing grants, do not use Columns (c) and (d). Enter in Column (e) the amount of the increase or decrease of Federal funds and enter in Column (f) the amount of the increase or decrease of non-Federal funds. In Column (g) enter the new total budgeted amount (Federal and non-Federal) which includes the total previous authorized budgeted amounts plus or minus, as appropriate, the amounts shown in Columns (e) and (f). The amount(s) in Column (g) should not equal the sum of amounts in Columns (e) and (f).

Line 5 — Show the totals for all columns used.

Section B Budget Categories

In the column headings (1) through (4), enter the titles of the same programs, functions, and activities shown on Lines 1-4, Column (a), Section A. When additional sheets are prepared for Section A, provide similar column headings on each sheet. For each program, function or activity, fill in the total requirements for funds (both Federal and non-Federal) by object class categories.

Lines 6a-i — Show the totals of Lines 6a to 6h in each column.

Line 6j — Show the amount of indirect cost.

Line 6k — Enter the total of amounts on Lines 6i and 6j. For all applications for new grants and continuation grants the total amount in column (5), Line 6k, should be the same as the total amount shown in Section A, Column (g), Line 5. For supplemental grants and changes to grants, the total amount of the increase or decrease as shown in Columns (1)-(4), Line 6k should be the same as the sum of the amounts in Section A, Columns (e) and (f) on Line 5.

INSTRUCTIONS FOR THE SF-424A (continued)

Line 7 - Enter the estimated amount of income, if any, expected to be generated from this project. Do not add or subtract this amount from the total project amount. Show under the program narrative statement the nature and source of income. The estimated amount of program income may be considered by the federal grantor agency in determining the total amount of the grant.

Section C. Non-Federal-Resources

Lines 8-11 - Enter amounts of non-Federal resources that will be used on the grant. If in-kind contributions are included, provide a brief explanation on a separate sheet.

Column (a) - Enter the program titles identical to Column (a), Section A. A breakdown by function or activity is not necessary.

Column (b) - Enter the contribution to be made by the applicant.

Column (c) - Enter the amount of the State's cash and in-kind contribution if the applicant is not a State or State agency. Applicants which are a State or State agencies should leave this column blank.

Column (d) - Enter the amount of cash and in-kind contributions to be made from all other sources.

Column (e) - Enter totals of Columns (b), (c), and (d).

Line 12 - Enter the total for each of Columns (b)-(e). The amount in Column (e) should be equal to the amount on Line 5, Column (f), Section A.

Section D. Forecasted Cash Needs

Line 13 - Enter the amount of cash needed by quarter from the grantor agency during the first year.

Line 14 - Enter the amount of cash from all other sources needed by quarter during the first year.

Line 15 - Enter the totals of amounts on Lines 13 and 14.

Section E. Budget Estimates of Federal Funds Needed for Balance of the Project

Lines 16 - 19 - Enter in Column (a) the same grant program titles shown in Column (a), Section A. A breakdown by function or activity is not necessary. For new applications and continuation grant applications, enter in the proper columns amounts of Federal funds which will be needed to complete the program or project over the succeeding funding periods (usually in years). This section need not be completed for revisions (amendments, changes, or supplements) to funds for the current year of existing grants.

If more than four lines are needed to list the program titles, submit additional schedules as necessary.

Line 20 - Enter the total for each of the Columns (b)-(e). When additional schedules are prepared for this Section, annotate accordingly and show the overall totals on this line.

Section F. Other Budget Information

Line 21 - Use this space to explain amounts for individual direct object-class cost categories that may appear to be out of the ordinary or to explain the details as required by the Federal grantor agency.

Line 22 - Enter the type of indirect rate (provisional, predetermined, final or fixed) that will be in effect during the funding period, the estimated amount of the base to which the rate is applied, and the total indirect expense.

Line 23 - Provide any other explanations or comments deemed necessary.

Attachment D—SF 424B, Assurances—Non-Construction Programs

OMB Approval No. 0348-0040

ASSURANCES — NON-CONSTRUCTION PROGRAMS

Note: Certain of these assurances may not be applicable to your project or program. If you have questions, please contact the awarding agency. Further, certain Federal awarding agencies may require applicants to certify to additional assurances. If such is the case, you will be notified.

As the duly authorized representative of the applicant I certify that the applicant:

1. Has the legal authority to apply for Federal assistance, and the institutional, managerial and financial capability (including funds sufficient to pay the non-Federal share of project costs) to ensure proper planning, management and completion of the project described in this application.
2. Will give the awarding agency, the Comptroller General of the United States, and if appropriate, the State, through any authorized representative, access to and the right to examine all records, books, papers, or documents related to the award; and will establish a proper accounting system in accordance with generally accepted accounting standards or agency directives.
3. Will establish safeguards to prohibit employees from using their positions for a purpose that constitutes or presents the appearance of personal or organizational conflict of interest, or personal gain.
4. Will initiate and complete the work within the applicable time frame after receipt of approval of the awarding agency.
5. Will comply with the Intergovernmental Personnel Act of 1970 (42 U.S.C. §§ 4728-4763) relating to prescribed standards for merit systems for programs funded under one of the nineteen statutes or regulations specified in Appendix A of OPM's Standards for a Merit System of Personnel Administration (5 C.F.R. 900, Subpart F).
6. Will comply with all Federal statutes relating to nondiscrimination. These include but are not limited to: (a) Title VI of the Civil Rights Act of 1964 (P.L. 88-352) which prohibits discrimination on the basis of race, color or national origin; (b) Title IX of the Education Amendments of 1972, as amended (20 U.S.C. §§ 1681-1683, and 1685-1686), which prohibits discrimination on the basis of sex; (c) Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. § 794), which prohibits discrimination on the basis of handicaps; (d) the Age Discrimination Act of 1975, as amended (42 U.S.C. §§ 6101-6107), which prohibits discrimination on the basis of age; (e) the Drug Abuse Office and Treatment Act of 1972 (P.L. 92-255), as amended, relating to nondiscrimination on the basis of drug abuse; (f) the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970 (P.L. 91-616), as amended, relating to nondiscrimination on the basis of alcohol abuse or alcoholism; (g) §§ 523 and 527 of the Public Health Service Act of 1912 (42 U.S.C. 290 dd-3 and 290 ee-3), as amended, relating to confidentiality of alcohol and drug abuse patient records; (h) Title VIII of the Civil Rights Act of 1968 (42 U.S.C. § 3601 et seq.), as amended, relating to nondiscrimination in the sale, rental or financing of housing; (i) any other nondiscrimination provisions in the specific statute(s) under which application for Federal assistance is being made; and (j) the requirements of any other nondiscrimination statute(s) which may apply to the application.
7. Will comply, or has already complied, with the requirements of Titles II and III of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (P.L. 91-646) which provide for fair and equitable treatment of persons displaced or whose property is acquired as a result of Federal or federally assisted programs. These requirements apply to all interests in real property acquired for project purposes regardless of Federal participation in purchases.
8. Will comply with the provisions of the Hatch Act (5 U.S.C. §§ 1501-1508 and 7324-7328) which limit the political activities of employees whose principal employment activities are funded in whole or in part with Federal funds.
9. Will comply, as applicable, with the provisions of the Davis-Bacon Act (40 U.S.C. §§ 276a to 276a-7), the Copeland Act (40 U.S.C. § 276c and 18 U.S.C. §§ 874), and the Contract Work Hours and Safety Standards Act (40 U.S.C. §§ 327-333), regarding labor standards for federally assisted construction subagreements.

Standard Form 424B (4-88)
Prescribed by OMB Circular A-102

Authorized for Local Reproduction

10. Will comply, if applicable, with flood insurance purchase requirements of Section 102(a) of the Flood Disaster Protection Act of 1973 (P.L. 93-234) which requires recipients in a special flood hazard area to participate in the program and to purchase flood insurance if the total cost of insurable construction and acquisition is \$10,000 or more.
11. Will comply with environmental standards which may be prescribed pursuant to the following: (a) institution of environmental quality control measures under the National Environmental Policy Act of 1969 (P.L. 91-190) and Executive Order (EO) 11514; (b) notification of violating facilities pursuant to EO 11738; (c) protection of wetlands pursuant to EO 11990; (d) evaluation of flood hazards in floodplains in accordance with EO 11988; (e) assurance of project consistency with the approved State management program developed under the Coastal Zone Management Act of 1972 (16 U.S.C. §§ 1451 et seq.); (f) conformity of Federal actions to State (Clear Air) Implementation Plans under Section 176(c) of the Clear Air Act of 1955, as amended (42 U.S.C. § 7401 et seq.); (g) protection of underground sources of drinking water under the Safe Drinking Water Act of 1974, as amended, (P.L. 93-523); and (h) protection of endangered species under the Endangered Species Act of 1973, as amended, (P.L. 93-205).
12. Will comply with the Wild and Scenic Rivers Act of 1968 (16 U.S.C. §§ 1271 et seq.) related to protecting components or potential components of the national wild and scenic rivers system.
13. Will assist the awarding agency in assuring compliance with Section 106 of the National Historic Preservation Act of 1966, as amended (16 U.S.C. 470), EO 11593 (identification and protection of historic properties), and the Archaeological and Historic Preservation Act of 1974 (16 U.S.C. 469a-1 et seq.).
14. Will comply with P.L. 93-348 regarding the protection of human subjects involved in research, development, and related activities supported by this award of assistance.
15. Will comply with the Laboratory Animal Welfare Act of 1966 (P.L. 89-544, as amended, 7 U.S.C. 2131 et seq.) pertaining to the care, handling, and treatment of warm blooded animals held for research, teaching, or other activities supported by this award of assistance.
16. Will comply with the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. §§ 4801 et seq.) which prohibits the use of lead based paint in construction or rehabilitation of residence structures.
17. Will cause to be performed the required financial and compliance audits in accordance with the Single Audit Act of 1984.
18. Will comply with all applicable requirements of all other Federal laws, executive orders, regulations and policies governing this program.

SIGNATURE OF AUTHORIZED CERTIFYING OFFICIAL	TITLE	
APPLICANT ORGANIZATION		DATE SUBMITTED

Attachment E—U.S. Department of Health and Human Services Certification Regarding Drug-Free Workplace Requirements—Grantees Other Than Individuals

**U.S. Department of Health and Human Services
Certification Regarding Drug-Free Workplace Requirements
Grantees Other Than Individuals**

By signing and/or submitting this application or grant agreement, the grantee is providing the certification set out below.

This certification is required by regulations implementing the Drug-Free Workplace Act of 1988, 45 CFR Part 76, Subpart F. The regulations, published in the May 25, 1990 Federal Register, require certification by grantees that they will maintain a drug-free workplace. The certification set out below is a material representation of fact upon which reliance will be placed when the Department of Health and Human Services (HHS) determines to award the grant. If it is later determined that the grantee knowingly rendered a false certification, or otherwise violates the requirements of the Drug-Free Workplace Act, HHS, in addition to any other remedies available to the Federal Government, may take action authorized under the Drug-Free Workplace Act. False certification or violation of the certification shall be grounds for suspension of payments, suspension or termination of grants, or governmentwide suspension or debarment.

Workplaces under grants, for grantees other than individuals, need not be identified on the certification. If known, they may be identified in the grant application. If the grantee does not identify the workplaces at the time of application, or upon award, if there is no application, the grantee must keep the identity of the workplace(s) on file in its office and make the information available for Federal inspection. Failure to identify all known workplaces constitutes a violation of the grantee's drug-free workplace requirements.

Workplace identifications must include the actual address of buildings (or parts of buildings) or other sites where work under the grant takes place. Categorical descriptions may be used (e.g., all vehicles of a mass transit authority or State highway department while in operation, State employees in each local unemployment office, performers in concert halls or radio studios.)

If the workplace identified to HHS changes during the performance of the grant, the grantee shall inform the agency of the change(s), if it previously identified the workplaces in question (see above).

Definitions of terms in the Nonprocurement Suspension and Debarment common rule and Drug-Free Workplace common rule apply to this certification. Grantees' attention is called, in particular, to the following definitions from these rules:

"Controlled substance" means a controlled substance in Schedules I through V of the Controlled Substances Act (21 USC 812) and as further defined by regulation (21 CFR 1308.11 through 1308.15).

"Conviction" means a finding of guilt (including a plea of nolo contendere) or imposition of sentence, or both, by any judicial body charged with the responsibility to determine violations of the Federal or State criminal drug statutes;

"Criminal drug statute" means a Federal or non-Federal criminal statute involving the manufacture, distribution, dispensing, use, or possession of any controlled substance;

"Employee" means the employee of a grantee directly engaged in the performance of work under a grant, including: (i) All "direct charge" employees; (ii) all "indirect charge" employees unless their impact or involvement is insignificant to the performance of the grant; and, (iii) temporary personnel and consultants who are directly engaged in the performance of work under the grant and who are on the grantee's payroll. This definition does not include workers not on the payroll of the grantee (e.g., volunteers, even if used to meet a matching requirement; consultants or independent contractors not on the grantee's payroll; or employees of subrecipients or subcontractors in covered workplaces).

The grantee certifies that it will or will continue to provide a drug-free workplace by:

(a) Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession or use of a controlled substance is prohibited in the grantee's workplace and specifying the actions that will be taken against employees for violation of such prohibition;

(b) Establishing an ongoing drug-free awareness program to inform employees about:

(1) The dangers of drug abuse in the workplace; (2) The grantee's policy of maintaining a drug-free workplace; (3) Any available drug counseling, rehabilitation, and employee assistance programs; and, (4) The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace;

(c) Making it a requirement that each employee to be engaged in the performance of the grant be given a copy of the statement required by paragraph (a);

(d) Notifying the employee in the statement required by paragraph (a) that, as a condition of employment under the grant, the employee will:

(1) Abide by the terms of the statement; and, (2) Notify the employer in writing of his or her conviction for a violation of a criminal drug statute occurring in the workplace no later than five calendar days after such conviction;

(e) Notifying the agency in writing, within ten calendar days after receiving notice under subparagraph (d)(2) from an employee or otherwise receiving actual notice of such conviction. Employers of convicted employees must provide notice, including position title, to every grant officer or other designee on whose grant activity the convicted employee was working, unless the Federal agency has designated a central point for the receipt of such notices. Notice shall include the identification number(s) of each affected grant;

(Continued on reverse side of this sheet)

HHS—Certification Regarding Drug-Free Workplace Requirements—continued from reverse page

(f) Taking one of the following actions, within 30 calendar days of receiving notice under subparagraph (d)(2), with respect to any employee who is so convicted:

(1) Taking appropriate personnel action against such an employee, up to and including termination, consistent with the requirements of the Rehabilitation Act of 1973, as amended; or, (2) Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State, or local health, law enforcement, or other appropriate agency;

(g) Making a good faith effort to continue to maintain a drug-free workplace through implementation of paragraphs (a), (b), (c), (d), (e) and (f).

The grantee may insert in the space provided below the site(s) for the performance of work done in connection with the specific grant (use attachments, if needed):

Place of Performance (Street address, City, County, State, ZIP Code) _____

Check ☐ if there are workplaces on file that are not identified here.

Sections 76.630(c) and (d)(2) and 76.635(a)(1) and (b) provide that a Federal agency may designate a central receipt point for STATE-WIDE AND STATE AGENCY-WIDE certifications, and for notification of criminal drug convictions. For the Department of Health and Human Services, the central receipt point is: Division of Grants Management and Oversight, Office of Management and Acquisition, Department of Health and Human Services, Room 517-D, 200 Independence Avenue, S.W., Washington, D.C. 20201.

Signature _____

Date _____

Title _____

Organization _____

DGMO Form#2 Revised May 1990

Attachment F—Certification Regarding Debarment, Suspension, and Other Responsibility Matters—Primary Covered Transactions

By signing and submitting this proposal, the applicant, defined as the primary participant in accordance with 45 CFR part 76, certifies to the best of its knowledge and belief that its principals involved:

(a) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency;

(b) Have not within a 3-year period preceding this proposal been convicted of or had a civil judgement rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State, or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;

(c) Are not presently indicted or otherwise criminally or civilly charged by a government entity (Federal, State or local) with commission of any of the offenses enumerated in paragraph (1)(b) of this certification; and

(d) Have not within a 3-year period preceding this application/proposal had one or more public transactions (Federal, State, or local) terminated for cause or default.

The inability of a person to provide the certification required above will not necessarily result in denial of participation for this covered transaction. If necessary, the prospective participant shall submit an explanation of why it cannot provide the certification. The certification or explanation will be considered in connection with the Department of Health and Human Services' (HHS) determination whether to enter into this transaction. However, failure of the prospective primary participant to furnish a certification or an explanation shall disqualify such person from participation in this transaction. The prospective primary participant agrees that by submitting this proposal, it will include the clause entitled "Certification Regarding Debarment, Suspension, Ineligibility, and Voluntary Exclusion—Lower Tier Covered Transactions", provided below, without modification in all lower tier covered transactions and in all solicitations for lower tier covered actions.

Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusions—Lower Tier Covered Transactions (To Be Supplied to Lower Tier Participants)

By signing and submitting this lower tier proposal, the prospective lower tier participant, as defined in 45 CFR part 76, certifies to the best of its knowledge and belief that it and its principals:

(a) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.

(b) Where the prospective lower tier participant is unable to certify to any of the above, such prospective participant shall attach an explanation to this proposal.

The prospective lower tier participant further agrees by submitting this proposal that it will include this clause entitled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusions—Lower Tier Covered Transactions" without modification in all lower tier covered transactions and in all solicitations for lower tier covered transactions.

Attachment G—State Single Points of Contact

Alabama

Mrs. Moncell Thornell, State Single Point of Contact, Alabama Department of Economic & Community Affairs, 3465 Norman Bridge Road, Post Office Box 250347, Montgomery, Alabama 36125-0347, Telephone (205) 284-8905.

Arizona

Ms. Janice Dunn, Arizona State Clearinghouse, 3800 N. Central Avenue, Fourteenth floor, Phoenix, Arizona 85012, Telephone (602) 280-1315.

Arkansas

Mr. Joseph Gillespie, Manager, State Clearinghouse, Office of Intergovernmental Service, Department of Finance and Administration, P.O. Box 3278, Little Rock, Arkansas 72203, Telephone (501) 371-1074.

California

Glenn Stober, Grants Coordinator, Office of Planning and Research, 1400 Tenth Street, Sacramento, California 95814, Telephone (916) 323-7480.

Colorado

State Single Point of Contact, State Clearinghouse, Division of Local Government, 1313 Sherman Street, room 520, Denver, Colorado 80203, Telephone (303) 866-2156.

Connecticut

Under Secretary, Attn: Intergovernmental Review coordinator, Comprehensive Planning Division, Office of Policy and

Management, 80 Washington Street, Hartford, Connecticut 06106-4459, Telephone (203) 566-3410.

Delaware

Francine Booth, State Single Point of Contact, Executive Department, Thomas Collins Building, Dover, Delaware 19903, Telephone (302) 736-3326.

District of Columbia

Lovetta Davis, State Single Point of Contact, Executive Office of the Mayor, Office of Intergovernmental Relations, room 418, District Building, 1350 Pennsylvania Avenue, NW., Washington, DC 20004, Telephone (202) 727-9111.

Florida

Karen McFarland, Director, Florida State Clearinghouse, Executive Office of the Governor, Office of Planning and Budgeting, The Capitol, Tallahassee, Florida 32399-0001, Telephone (904) 488-8114.

Georgia

Charles H. Badger, Administrator, Georgia State Clearinghouse, 270 Washington Street, SW., Atlanta, Georgia 30334, Telephone (404) 656-3855.

Hawaii

Mr. Harold S. Masumoto, Acting Director, Office of State Planning, Department of Planning and Economic Development, Office of the Governor, State Capitol, Honolulu, Hawaii 96813, Telephone (808) 548-3016 or 548-3085.

Illinois

Tom Berkshire, State Single Point of Contact, Office of the Governor, State of Illinois, Springfield, Illinois 62706, Telephone (217) 782-8639.

Indiana

Frank Sullivan, Budget Director, State Budget Agency, 212 State House, Indianapolis, Indiana 46204, Telephone (317) 232-5610.

Iowa

Steven R. McCann, Division for Community Progress, Iowa Department of Economic Development, 200 East Grand Avenue, Des Moines, Iowa 50309, Telephone (515) 281-3725.

Kentucky

Robert Leonard, State Single Point of Contact, Kentucky State Clearinghouse, 2nd Floor Capital Plaza Tower, Frankfort, Kentucky 40601, Telephone (502) 564-2382.

Maine

State Single Point of Contact, Attn: Joyce Benson, State Planning Office, State House Station #38, Augusta, Maine 04333, Telephone (207) 289-3261.

Maryland

Mary Abrams, Chief, Maryland State Clearinghouse, Department of State Planning, 301 West Preston Street, Baltimore, Maryland 21201-2365, Telephone (301) 255-4490.

Massachusetts

State Single Point of Contact, Attn: Beverly Boyle, Executive Office of Communities & Development, 100 Cambridge Street, room 1803, Boston, Massachusetts 02202, Telephone (617) 727-7001

Michigan

Milton O. Waters, Director of Operations, Michigan Neighborhood Builders Alliance, Michigan Department of Commerce, Telephone (517) 373-7111

Please direct correspondence to: Manager, Federal Project Review, Michigan Department of Commerce, Michigan Neighborhood Builders Alliance, P.O. Box 30242, Lansing, Michigan 48909, Telephone (517) 373-6223.

Mississippi

Cathy Mallette, Clearinghouse Officer, Department of Finance and Administration, Office of Policy Development, 421 West Pascagoula Street, Jackson, Mississippi 39203, Telephone (601) 960-4280

Missouri

Lois Pohl, Federal Assistance Clearinghouse, Office of Administration, Division of General Services, P.O. Box 809, Room 430, Truman Building, Jefferson City, Missouri 65102, Telephone (314) 751-4834

Montana

Deborah Stanton, State Single Point of Contact, Intergovernmental Review Clearinghouse, c/o Office of Budget and Program Planning, Capitol Station, Room 202—State Capitol, Helena, Montana 59620, Telephone (406) 444-5522

Nevada

Department of Administration, State Clearinghouse, Capitol Complex, Carson City, Nevada 89710, ATTN: John B. Walker, Clearinghouse Coordinator

New Hampshire

Jeffrey H. Taylor, Director, New Hampshire Office of State Planning, Attn: Intergovernmental Review Process/James E. Bieber, 2 1/2 Beacon Street, Concord, New Hampshire 03301, Telephone (603) 271-2155

New Jersey

Barry Skokowski, Director, Division of Local Government Services, Department of Community Affairs, CN 803, Trenton, New Jersey 08625-0803, Telephone (609) 292-6613

Please direct correspondence and questions to: Nelson S. Silver, State Review Process, Division of Local Government Services, CN 803, Trenton, New Jersey 08625-0803, Telephone (609) 292-9025.

New Mexico

Dorothy E. (Duffy) Rodriguez, Deputy Director, State Budget Division, Department of Finance & Administration, Room 190, Bataan Memorial Building, Santa Fe, New Mexico 87503, Telephone (505) 827-3640

New York

New York State Clearinghouse, Division of the Budget, State Capitol, Albany, New York 12224, Telephone (518) 474-1605

North Carolina

Mrs. Chrysty Baggett, Director, Intergovernmental Relations, N.C. Department of Administration, 118 W. Jones Street, Raleigh, North Carolina 27611, Telephone (919) 733-0499

North Dakota

William Robinson, State Single Point of Contact, Office of Intergovernmental Affairs, Office of Management and Budget, 14th Floor, State Capitol, Bismarck, North Dakota 58505, Telephone (701) 224-2094

Ohio

Larry Weaver, State Single Point of Contact, State/Federal Funds Coordinator, State Clearinghouse, Office of Budget and Management, 30 East Broad Street, 34th Floor, Columbus, Ohio 43268-0411, Telephone (614) 468-0693

Oklahoma

Don Strain, State Single Point of Contact, Oklahoma Department of Commerce, Office of Federal Assistance Management, 6601 Broadway Extension, Oklahoma City, Oklahoma 73116, Telephone (405) 843-9770

Oregon

Attn: Dolores Streeter, State Single Point of Contact, Intergovernmental Relations Division, State Clearinghouse, 155 Cottage Street NE., Salem, Oregon 97310, Telephone (503) 373-1998

Pennsylvania

Sandra Kline, Project Coordinator, Pennsylvania Intergovernmental Council, P.O. Box 11880, Harrisburg, Pennsylvania 17108, Telephone (717) 783-3700

Rhode Island

Daniel W. Varin, Associate Director, Statewide Planning Program, Department of Administration, Division of Planning, 265 Melrose Street, Providence, Rhode Island 02907, Telephone (401) 277-2656
Please direct correspondence and questions to: Review Coordinator, Office of Strategic Planning.

South Carolina

Danny L. Cromer, State Single Point of Contact, Grant Services, Office of the Governor, 1205 Pendleton Street, room 477, Columbia, South Carolina 29201, Telephone (803) 734-0493

South Dakota

Susan Comer, State Clearinghouse Coordinator, Office of the Governor, 500 East Capitol, Pierre, South Dakota 57501, Telephone (605) 773-3212

Tennessee

Charles Brown, State Single Point of Contact, State Planning Office, 800 Charlotte Avenue, 309 John Sevier Building, Nashville, Tennessee 37219, Telephone (615) 741-1676

Texas

Tom Adams, Governor's Office of Budget and Planning, P.O. Box 12428, Austin, Texas 78711, Telephone (512) 463-1778

Utah

Utah State Clearinghouse, Attn: Carolyn Wright, Office of Planning and Budget, State of Utah, 116 State Capitol Building, Salt Lake City, Utah 84114, Telephone (801) 538-1547

Vermont

Bernard D. Johnson, Assistant Director, Office of Policy Research & Coordination, Pavilion Office Building, 109 State Street, Montpelier, Vermont 05602, Telephone (802) 828-3326

Washington

Marilyn Dawson, Washington Intergovernmental Review Process, Department of Community Development, 9th and Columbia Building, Mail Stop GH-51, Olympia, Washington 98504-4151, Telephone (206) 753-4978

West Virginia

Fred Cutlip, Director, Community Development Division, Governor's Office of Community and Industrial Development, Building #6, room 553, Charleston, West Virginia 25305, Telephone (304) 348-4010.

Wisconsin

James R. Klauser, Secretary, Wisconsin Department of Administration, 101 South Webster Street, GEF 2, P.O. Box 7864, Madison, Wisconsin 53707-7864, Telephone (608) 266-1741.

Please direct correspondence and questions to: William C. Carey, Section Chief, Federal-State Relations Office, Wisconsin Department of Administration, (608) 266-0267.

Wyoming

Ann Redman, State Single Point of Contact, Wyoming State Clearinghouse, State Planning Coordinator's Office, Capitol Building, Cheyenne, Wyoming 82002, Telephone (307) 777-7574.

Territories**Guam**

Michael J. Reidy, Director, Bureau of Budget and Management Research, Office of the Governor, P.O. Box 2950, Agaña, Guam 96910, Telephone (671) 472-2285.

Northern Mariana Islands

State Single Point of Contact, Planning and Budget Office, Office of the Governor, Saipan, CM, Northern Mariana Islands 96950.

Puerto Rico

Patria Custodio/Israel Soto Marrero, Chairman/Director, Puerto Rico Planning Board, Minillas Government Center, P.O. Box 41119, San Juan, Puerto Rico 00940-9985, Telephone (809) 727-4444.

Virgin Islands

Jose L. George, Director, Office of
Management and Budget, No. 32 & 33
Kongens Gade, Charlotte Amalie, V.I.
00802, Telephone (809) 774-0750.

**Attachment H—Restrictions on
Lobbying****Restrictions on Lobbying*****Certification for Contracts, Grants,
Loans, and Cooperative Agreements***

The undersigned certifies, to the best
of his or her knowledge and belief, that:

(1) No Federal appropriated funds
have been paid or will be paid, by or on
behalf of the undersigned, to any person
for influencing or attempting to influence
an officer or employee of any agency, a
Member of Congress in connection with
the awarding of any Federal contract,
the making of any Federal grant, the
agreement, and the extension,
continuation, renewal, amendment, or
modification of any Federal contract,
grant, loan, or cooperative agreement.

(2) If any funds other than Federal
appropriated funds have been paid or

will be paid to any person for
influencing or attempting to influence an
officer or employee of any agency, a
Member of Congress in connection with
this Federal contract, grant, loan, or
cooperative agreement, the undersigned
shall complete and submit Standard
Form—LLL, "Disclosure Form to Report
Lobbying," in accordance with its
instructions.

(3) The undersigned shall require that
the language of this certification be
included in the award documents for
subawards at all tiers (including
subcontracts, subgrants and contracts
under grants, loans, and cooperative
agreements) and that all subrecipients
shall certify and disclose accordingly.

This certification is a material
representation of fact upon which
reliance was placed when this
transaction was made or entered into.
Submission of this certification is a
prerequisite for making or entering into
this transaction imposed by section
1352, title 31, U.S. Code. Any person
who fails to file the required

certification shall be subject to a civil
penalty of not less than \$10,000 and not
more than \$100,000 for each such failure.

***Statement for Loan Guarantees and
Loan Insurance***

The undersigned states, to the best of
his or her knowledge and belief that:

If any funds have been paid or will be
paid to any person for influencing or
attempting to influence an officer or
employee of any agency, a Member of
Congress, an officer or employee of
Congress, or an employee of a Member
of Congress in connection with this
commitment providing for the United
States to insure or guarantee a loan, the
undersigned shall complete and submit
Standard Form LLL, "Disclosure Form to
Report Lobbying," in accordance with
its instructions.

Signature

Organization

Date

BILLING CODE 4150-04-M

DISCLOSURE OF LOBBYING ACTIVITIESApproved by OMB
0348-0046Complete this form to disclose lobbying activities pursuant to 31 U.S.C. 1352
(See reverse for public burden disclosure.)

1. Type of Federal Action: <input type="checkbox"/> a. contract <input type="checkbox"/> b. grant <input type="checkbox"/> c. cooperative agreement <input type="checkbox"/> d. loan <input type="checkbox"/> e. loan guarantee <input type="checkbox"/> f. loan insurance	2. Status of Federal Action: <input type="checkbox"/> a. bid/offer/application <input type="checkbox"/> b. initial award <input type="checkbox"/> c. post-award	3. Report Type: <input type="checkbox"/> a. initial filing <input type="checkbox"/> b. material change For Material Change Only: year _____ quarter _____ date of last report _____
4. Name and Address of Reporting Entity: <input type="checkbox"/> Prime <input type="checkbox"/> Subawardee Tier _____, if known: Congressional District, if known: _____	5. If Reporting Entity in No. 4 is Subawardee, Enter Name and Address of Prime: Congressional District, if known: _____	
6. Federal Department/Agency: _____	7. Federal Program Name/Description: CFDA Number, if applicable: _____	
8. Federal Action Number, if known: _____	9. Award Amount, if known: \$ _____	
10. a. Name and Address of Lobbying Entity (if individual, last name, first name, MI): <div style="border: 1px solid black; height: 100px; width: 100%;"></div>		
b. Individuals Performing Services (including address if different from No. 10a) (last name, first name, MI): <div style="border: 1px solid black; height: 100px; width: 100%;"></div>		
<i>(attach Continuation Sheet(s) SF-LLL-A, if necessary)</i>		
11. Amount of Payment (check all that apply): \$ _____ <input type="checkbox"/> actual <input type="checkbox"/> planned	13. Type of Payment (check all that apply): <input type="checkbox"/> a. retainer <input type="checkbox"/> b. one-time fee <input type="checkbox"/> c. commission <input type="checkbox"/> d. contingent fee <input type="checkbox"/> e. deferred <input type="checkbox"/> f. other; specify: _____	
12. Form of Payment (check all that apply): <input type="checkbox"/> a. cash <input type="checkbox"/> b. in-kind; specify: nature _____ value _____		
14. Brief Description of Services Performed or to be Performed and Date(s) of Service, including officer(s), employee(s), or Member(s) contacted, for Payment Indicated in Item 11: <div style="border: 1px solid black; height: 150px; width: 100%;"></div>		
<i>(attach Continuation Sheet(s) SF-LLL-A, if necessary)</i>		
15. Continuation Sheet(s) SF-LLL-A attached: <input type="checkbox"/> Yes <input type="checkbox"/> No		
16. Information requested through this form is authorized by title 31 U.S.C. section 1352. This disclosure of lobbying activities is a material representation of fact upon which reliance was placed by the tier above when this transaction was made or entered into. This disclosure is required pursuant to 31 U.S.C. 1352. This information will be reported to the Congress semi-annually and will be available for public inspection. Any person who fails to file the required disclosure shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.	Signature: _____ Print Name: _____ Title: _____ Telephone No.: _____ Date: _____	
Federal Use Only:		Authorized for Local Reproduction Standard Form - LLL

INSTRUCTIONS FOR COMPLETION OF SF-LLL, DISCLOSURE OF LOBBYING ACTIVITIES

This disclosure form shall be completed by the reporting entity, whether subawardee or prime Federal recipient, at the initiation or receipt of a covered Federal action, or a material change to a previous filing, pursuant to title 31 U.S.C. section 1352. The filing of a form is required for each payment or agreement to make payment to any lobbying entity for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with a covered Federal action. Use the SF-LLL-A Continuation Sheet for additional information if the space on the form is inadequate. Complete all items that apply for both the initial filing and material change report. Refer to the implementing guidance published by the Office of Management and Budget for additional information.

1. Identify the type of covered Federal action for which lobbying activity is and/or has been secured to influence the outcome of a covered Federal action.
2. Identify the status of the covered Federal action.
3. Identify the appropriate classification of this report. If this is a followup report caused by a material change to the information previously reported, enter the year and quarter in which the change occurred. Enter the date of the last previously submitted report by this reporting entity for this covered Federal action.
4. Enter the full name, address, city, state and zip code of the reporting entity. Include Congressional District, if known. Check the appropriate classification of the reporting entity that designates if it is, or expects to be, a prime or subaward recipient. Identify the tier of the subawardee, e.g., the first subawardee of the prime is the 1st tier. Subawards include but are not limited to subcontracts, subgrants and contract awards under grants.
5. If the organization filing the report in item 4 checks "Subawardee", then enter the full name, address, city, state and zip code of the prime Federal recipient. Include Congressional District, if known.
6. Enter the name of the Federal agency making the award or loan commitment. Include at least one organizational level below agency name, if known. For example, Department of Transportation, United States Coast Guard.
7. Enter the Federal program name or description for the covered Federal action (item 1). If known, enter the full Catalog of Federal Domestic Assistance (CFDA) number for grants, cooperative agreements, loans, and loan commitments.
8. Enter the most appropriate Federal identifying number available for the Federal action identified in item 1 (e.g., Request for Proposal (RFP) number; Invitation for Bid (IFB) number; grant announcement number; the contract, grant, or loan award number; the application/proposal control number assigned by the Federal agency). Include prefixes, e.g., "RFP-DE-90-001."
9. For a covered Federal action where there has been an award or loan commitment by the Federal agency, enter the Federal amount of the award/loan commitment for the prime entity identified in item 4 or 5.
10. (a) Enter the full name, address, city, state and zip code of the lobbying entity engaged by the reporting entity identified in item 4 to influence the covered Federal action.
(b) Enter the full names of the individual(s) performing services, and include full address if different from 10 (a). Enter Last Name, First Name, and Middle Initial (MI).
11. Enter the amount of compensation paid or reasonably expected to be paid by the reporting entity (item 4) to the lobbying entity (item 10). Indicate whether the payment has been made (actual) or will be made (planned). Check all boxes that apply. If this is a material change report, enter the cumulative amount of payment made or planned to be made.
12. Check the appropriate box(es). Check all boxes that apply. If payment is made through an in-kind contribution, specify the nature and value of the in-kind payment.
13. Check the appropriate box(es). Check all boxes that apply. If other, specify nature.
14. Provide a specific and detailed description of the services that the lobbyist has performed, or will be expected to perform, and the date(s) of any services rendered. Include all preparatory and related activity, not just time spent in actual contact with Federal officials. Identify the Federal official(s) or employee(s) contacted or the officer(s), employee(s), or Member(s) of Congress that were contacted.
15. Check whether or not a SF-LLL-A Continuation Sheet(s) is attached.
16. The certifying official shall sign and date the form, print his/her name, title, and telephone number.

Public reporting burden for this collection of information is estimated to average 30 minutes per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Office of Management and Budget, Paperwork Reduction Project (0348-0046), Washington, D.C. 20503.

DISCLOSURE OF LOBBYING ACTIVITIES CONTINUATION SHEET

Approved by OMB
0348-0046

Reporting Entity: _____

Page _____ of _____

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Attachment I—DHHS Regulations That Apply to All Applicants/Grantees Under the OCS Discretionary Program

Title 45 of the Code of Federal Regulations:

- Part 16—Procedures of the Departmental Grant Appeals Board
- Part 74—Administration of Grants (non-governmental)
- Part 74—Administration of Grants (state and local governments and Indian Tribal affiliates):
 - Sections 74.62(a) Non-Federal Audits
 - 74.173 Hospitals
 - 74.174(b) Other Nonprofit Organizations
 - 74.304 Final Decisions in Disputes
 - 74.710 Real Property, Equipment and Supplies
 - 74.715 General Program Income
- Part 75—Informal Grant Appeal Procedures
- Part 76—Debarment and Suspension from Eligibility for Financial Assistance
- Subpart F—Drug Free Workplace Requirements
- Part 80—Non-discrimination Under Programs Receiving Federal Assistance through the Department of Health and Human Services Effectuation of Title VI of the Civil Rights Act of 1964

- Part 81—Practice and Procedures for Hearings Under Part 80 of this Title
- Part 83—Nondiscrimination on the basis of sex in the admission of individuals to training programs
- Part 84—Non-discrimination on the Basis of Handicap in Programs
- Part 91—Non-discrimination on the Basis of Age in Health and Human Services Programs or Activities Receiving Federal Financial Assistance
- Part 92—Uniform Administrative Requirements for Grants and Cooperative Agreements to States and Local Governments (Federal Register, March 11, 1988)
- Part 93—New Restrictions on Lobbying
- Part 100—Intergovernmental Review of Department of Health and Human Services Programs and Activities

Attachment J—Checklist for Use in Submitting OCS Grant Applications (Optional)

The application should contain:

1. A completed, signed SF-424, "Application for Federal Assistance". The letter code for the priority area (TA or TD) should be in the lower right-hand corner of the page;
2. A completed "Budget Information-Non-Construction" (SF-424A);

3. A signed "Assurances-Non-Construction" (SF-424A);

4. A Project Narrative beginning with a Table of Contents that describes the project in the following order:

- (a) Analysis of Needs/Priorities
- (b) Work Program
- (c) Significant and Beneficial Impact
- (d) Management History
- (e) Staffing and Resources

5. Appendices including proof of non-profit status, Single Points of Contact comments (where applicable), resumes;

6. A signed copy of "Certification Regarding Anti-Lobbying Activities";

7. A completed "Disclosures of Lobbying Activities", if appropriate; and

8. A self-addressed mailing label which can be affixed to a postcard to acknowledge receipt of application. The application should not exceed a total of 30 pages. It should include one original and four identical copies, printed on white 8½ by 11 inch paper, and be presented in a ring binder. The applicant must be aware that in signing and submitting the application for this award, it is certifying that it will comply with the Federal requirements concerning the drug-free workplace and debarment regulations set forth in Attachments D and E.

[FR Doc. 91-13041 Filed 6-3-91; 8:45 am]

BILLING CODE 4150-04-M

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Tuesday
June 4, 1991

Part VI

Department of Health and Human Services

Office of Community Services

**Fiscal Year 1991 Job Opportunities for
Low-Income Individuals Program
(Demonstration Projects); Request for
Applications; Notice**

DEPARTMENT OF HEALTH AND HUMAN SERVICES

[Program Announcement No. OCS-91-6]

Request for Applications Under the Office of Community Services' Fiscal Year 1991 Jobs Opportunities for Low-Income Individuals Program (Demonstration Projects)

AGENCY: Office of Community Services, Administration for Children and Families, HHS.

ACTION: Announcement of availability of funds and request for applications under the Office of Community Services' Jobs Opportunities for Low Income Individuals Programs (Demonstration Projects).

SUMMARY: The Administration for Children and Families, Office of Community Services (OCS), announces that competing applications will be accepted for new grants pursuant to the Secretary's discretionary authority under section 505 of the Family Support Act of 1988. This Program Announcement consists of seven parts:

Part A covers information on legislative authorities and defines terms used in the Program Announcement;

Part B describes the types of projects that will be considered for funding;

Part C provides details on application prerequisites, including who is eligible to apply, funds available, limitations on grant amounts, project and budget periods, who should benefit from the programs, prohibition on the use of funds, and other application requirements;

Part D describes the application procedures, including the availability of forms, where and how to submit an application, the criteria used in screening and evaluating applications, and intergovernmental review.

Part E describes the contents of the application package and receipt process;

Part F provides instructions for completing the SF-424 following standard Federal guidelines as well as OCS specific requirements, and describes how the project narrative should be ordered and presented; and

Part G details post-award information and reporting requirements.

CLOSING DATE: The closing date for submission of applications is August 5, 1991.

FOR FURTHER INFORMATION CONTACT: Office of Community Services, 370 L'Enfant Promenade SW., Washington, DC 20447 Telephone (202) 401-2333 Contact: Margaret Washnitzer

Table of Contents

Part A—Preamble

1. Legislative Authority
2. Departmental Goals
3. Definition of Terms

Part B—Purpose

1. General Projects
2. Community Development Corporations Set-aside
3. HUD/HHS Economic Empowerment Grantee Set-aside

Part C—Application Prerequisites

1. Eligible Applicants
2. Availability of Funds
3. Project and Budget Periods
4. Mobilization of Resources
5. Program Participants/Beneficiaries
6. Prohibition on the Use of Funds
7. Multiple Submittals

Part D—Application Procedures

1. Availability of Forms
2. Application Submission
3. Intergovernmental Review
4. Application Consideration
5. Criteria for Screening Applicants
 - a. Initial Screening
 - b. Pre-rating Review
 - c. Review Criteria

Part E—Contents of Application and Receipt Process

1. Contents of Application
2. Acknowledgement of Receipt

Part F—Instructions for Completing Application Package

1. SF-424—"Application for Federal Assistance"
2. SF-424A—"Budget Information-Non-Construction Programs"
3. SF-424B—"Assurances-Non-Construction"
4. Restrictions on Lobbying Activities
5. Disclosure of Lobbying Activities
6. Project Narrative
 - a. Eligibility Confirmation
 - b. Analysis of Need
 - c. Organizational Experience and Staff Responsibilities
 - d. Work Program
 - e. Third Party Evaluation
 - f. Cooperative Partnership Agreements

Part G—Post Award Information and Reporting Requirements

Part A—Preamble

1. Legislative Authority

Section 505 of the Family Support Act of 1988 authorizes the Secretary to enter into agreements with not less than 5 nor more than 10 nonprofit organizations (including community development corporations) for the purpose of conducting demonstration projects to create employment and business opportunities for certain low-income individuals.

2. Departmental Goals

The Secretary has established seven strategic goals guiding the Department of Health and Human Services' policies and programs over the next several

years. One of those goals is particularly relevant to OCS' Discretionary Grant Program, i.e. strengthening the American family. The Secretary's Program Directions on how programs should be managed in order to achieve this goal include improving access of youth living in low-income families to needed support services, including employment training and other transition to work services, and improving the integration, coordination and continuity of the various HHS funded services potentially available to families currently living in poverty.

3. Definition of Terms

For purposes of this Program Announcement the following definitions apply:

—**Budget Period:** The interval of time into which a grant period of assistance is divided for budgetary and funding purposes.

—**Community Development Corporation:** A private, locally initiated, nonprofit entity, governed by a board consisting of residents of the community and business and civic leaders, which has a record of implementing economic development projects or whose Articles of Incorporation and/or By-Laws indicate that it has a focus in the area of economic development.

—**Eligible participant/beneficiary:** Any individual eligible to receive Aid to Families with Dependent Children under part A of Title IV of the Social Security Act and any other individual whose income level does not exceed 100 percent of the official poverty line as found in the most recent Annual Revision of Poverty Income Guidelines published by the Department of Health and Human Services. (See Attachment A.)

—**Hypothesis:** An assumption made in order to test its validity. It should assert a relationship between an intervention and an outcome on a target population. For example, there will be a significant increase in the proportion of (target population) making progress toward self-sufficiency (outcome) who receive and/or participate in (intervention) as compared to those who do not. The outcome must be measurable.

—**Intervention:** Any planned activity within a project that is intended to produce changes in the target population and/or the environment and can be formally evaluated. For example, assistance in the preparation of a business plan and loan package are planned interventions.

- Job Creation:** To bring about, by activities funded under this program, new jobs, that is jobs that were not in existence before the start of the project. These activities can include the development of new businesses or the expansion of existing businesses.
- Non-profit organizations:** Any organization (including a community development corporation) exempt from taxation under section 501(a) of the Internal Revenue Code of 1986 by reason of paragraph (3) or (4) of section 501(c) of such Code.
- Outcome evaluation:** Information that is gathered on the measurable results of a program that measure its impact on clients in order to improve it or lead to its replication. It may include definitions and measurements of interventions and goals, assessment, assignment and data collection techniques for the treatment and control groups, the experimental design, and statistical significance. It should answer the question, "Did this program work?"
- Private employers:** Third-party private non-profit organizations or third-party for-profit businesses located in the same community as the applicant.
- Process evaluation:** Information that is gathered on the internal dynamics, development and implementation of a program to help improve it or lead to its replication. It may include timeliness, descriptions of treatment and control groups, client selection, descriptions of interventions, partnerships and funding arrangements. It should answer the questions, "WHY DID THIS PROGRAM WORK? NOT WORK?"
- Project Period:** The term "project period" refers to the total time a project is approved for support, including any extensions.
- Self-Sufficiency:** A condition where an individual or family, by reason of employment, does not need and is not eligible for public assistance.

Part B—Purpose

The purpose of this program is to demonstrate and evaluate ways of creating new employment and business opportunities for certain low-income individuals through the provision of technical and financial assistance to private employers in the community. A low-income individual eligible to participate in a project conducted under this program is any individual eligible to receive Aid to Families with Dependent Children (AFDC) under Part A of Title IV of the Social Security Act and any other individual whose income level does not exceed 100 percent of the official poverty line. (See Attachment

A.) Within these categories, emphasis should be on individuals who are unemployed, those residing in public housing, and those who are homeless.

1. General Projects

OCS will fund projects that hold promises for aiding eligible participants in their progress toward self-sufficiency. Therefore, proposed projects must show promise of increasing self-sufficiency among the target population. OCS expects that the jobs and/or business employment (self-employment) opportunities to be created under this program will contribute to the goal of self-sufficiency by, for example, providing hourly wages that significantly exceed the minimum wage and which provide benefits such as health insurance, transportation, child care, career development opportunities, etc.

Applicants must show that the proposed project will create a significant number of new full-time permanent jobs and/or a significant number of new business development opportunities for eligible participants.

While projected employment in future years may be included in the application, it is essential that the focus of employment opportunities concentrate on new full-time, permanent jobs to be created during the duration of the grant project period and/or on the creation of new business development opportunities for low-income individuals.

In creating self-employment business opportunities for eligible participants, applicant must detail how it will work with private employers in identifying potential entrepreneurs. The assistance to be provided to potential entrepreneurs must include, at a minimum, technical assistance in basic business planning and management concepts, and assistance in preparing a business plan (see section F.6.d.ii for requirements) and loan application.

Any funds that are used for training purposes must be limited to providing specific job-related training to eligible participants who have been selected for employment and/or self-employment business opportunities.

In the review process, favorable consideration will be given to applicants with a demonstrated record of achievement in promoting job and enterprise opportunities for low-income people. Favorable consideration also will be given to those applicants who show the lowest cost-per-job created for low-income individuals. OCS views \$15,000 as the maximum amount for the creation of a job and, unless there are extenuating circumstances, will not fund

projects where the cost-per-job in OCS funds exceeds this amount. Only those jobs created and filled by low-income people will be counted in the cost-per-job formula.

Technical assistance should be specifically addressed to the needs of the private employer in creating new jobs to be filled by eligible individuals and/or to the individuals themselves such as skills training, job preparation, self-esteem building, etc. Financial assistance also may include assistance to the private employer as well as assistance to the individual. If the technical and/or financial assistance is to be provided to pre-identified businesses that will be expanded or franchised, written comments from the businesses must be included with the application.

The creation of a revolving loan fund with funds received under this program is an allowable activity. However, OCS encourages the use of funds from other sources for this purpose. Points will be awarded in the review process to those applicants who leverage funds from other sources. (See Part D, Criterion VI.) Loans made to eligible beneficiaries for business development activities must be at or below market rate.

Grant funds received under this program may not be used for construction.

A formal, cooperative relationship between the applicant and the agency (State IV-A agency) responsible for administering the Job Opportunities and Basic Skills (JOBS) training program (as provided for under title IV-A of the Social Security Act) in the area served by the project is a requirement for funding. The application must include a signed, written agreement between the applicant and the State IV-A agency, or a letter of intent (contingent only on receipt of OCS funds), which describes the cooperative relationship, including specific activities and/or actions each of these entities proposes to carry out over the course of the grant period in support of the project. The agreement, at a minimum, must cover activities that will be provided to the target population and which are related to one or more of the mandatory or optional components offered by the appropriate State's JOBS program. The mandatory activities offered by the States' JOBS programs consist of the following components: basic education activities; job skills training; job readiness activities; job development and job placement. The optional components offered by the States' JOBS programs include: group and individual job search counseling and training on job seeking skills; on-

the-job-training; work supplementation; and community work experience.

Projects also must include an independent, methodologically sound evaluation of the effectiveness of the activities carried out with the grant in creating new jobs and business opportunities. The use of comparison groups will be required. (See Parts D and F for evaluation criteria and evaluation elements.)

Applications should include a plan for disseminating the results of the project after expiration of the grant period. Applicants may budget up to \$1,000 for dissemination purposes.

Priority will be given to applications proposing to serve those areas containing the highest percentage of individuals receiving Aid to Families with Dependent Children under Title IV-A of the Social Security Act. (See Part D, Criterion I.)

Applicants must be aware that it is expected that projects will be operational by the end of the project period, i.e. that the jobs and/or businesses that the applicant committed itself in the application to creating will be in place, and low-income individuals will actually be employed in those jobs and/or businesses.

See Part F, 6, d, for special instructions on developing a work program.

2. Community Development Corporations Set-Aside

For Fiscal Year 1991, a set-aside fund of \$1 million will be included for community development corporations. A community development corporation for purposes of this set-aside fund is a private, non-profit entity which has a record of implementing economic development projects or, whose Articles of Incorporation and/or By-Laws indicate that it has a focus in the area of economic development, which has a tax exempt determination under Section 501(a) of the Internal Revenue Code of 1986 by reason of paragraph (3) or (4) of Section 501(c) of such code.

Such projects must conform to the purposes, requirements, and prohibitions applicable to those submitted under Part B, 1—General Projects.

Applications for these set-aside funds which are not funded due to the limited amount of funds available will also be considered competitively within the larger pool of eligible applicants.

HUD/HHS Economic Empowerment Demonstration Grantee Set-Aside

For Fiscal Year 1991, a Set-Aside fund of \$1 million will be included for eligible applicants.

An eligible applicant for purposes of this set-aside fund will be any non-profit organization as defined in Part A, 3, Definition of Terms, that receives funding under the HUD/HHS Economic Empowerment Demonstration Program or which has entered into a written agreement with such a recipient.

The HUD/HHS Economic Empowerment Demonstration Program is one of the cooperative actions being taken by the Department of Health and Human Services and the Department of Housing and Urban Development to encourage communities to integrate assistance programs for families receiving welfare who reside in public and Indian housing. A separate Program Announcement will be published by the Department of Health and Human Services regarding this demonstration program.

OCS will make up to two grants under this set-aside with a maximum of \$500,000 to be granted for each project.

Projects proposed for funding under this set-aside must conform to the purposes, requirements and prohibitions applicable to those submitted under Part B, 1—General Project and the jobs created must be filled by residents of the public or Indian housing project represented by the applicant or the organization with which the applicant has entered into a written agreement. In addition, if the applicant is not an organization applying for a HUD/HHS Economic Empowerment Demonstration Program grant, the application must include a written agreement between the applicant and such an organization which contains specific language confirming that the jobs that they propose to create under this set-aside will be filled by residents of the public or Indian housing project. The agreement must also describe the cooperative relationship, including specific activities and/or actions, each of these entities proposes to carry out in support of the project and the mechanism(s) to be used in coordinating those activities if the project is funded by OCS.

Eligible applicants as defined under this set-aside may also apply for funding under the General Project fund. If such organizations apply for funding under the General Project fund and are not funded, their application will be considered under the HUD/HHS Economic Empowerment Demonstration Grantee Set-Aside using the score it received when reviewed under the General Project fund.

Eligible applicants that apply for funding under the HUD/HHS Economic Empowerment Demonstration Grantee Set-Aside only will not be considered

under the General Project fund, if the application is not funded under the set-aside.

The closing date for submission of applications under this set-aside will be specified in the Program Announcement covering the HUD/HHS Economic Empowerment Demonstration Program (To be issued by ACF Office of Family Assistance).

Part C—Application Prerequisites

1. Eligible Applicants

Eligible applicants are non-profit organizations as detailed under Part A, 3, Definition of Terms and as further defined in Part B, 2 and 3 for applicants submitting proposals under those set-asides.

2. Availability of Funds and Grant Amounts

(1) Office of Community Services expects to award approximately \$4,400,000 by September 30, 1991 for new grants under this program to fully fund three year projects.

(2) No more than \$500,000 will be granted to any organization under this program in FY 91. Due to the limited funds available under this program only one grant will be allowed to any organization.

3. Project and Budget Periods

Project and budget periods will be 36 months. By fully funding the projects in FY 91 funding stability in future years will be insured.

4. Mobilization of Resources

OCS will give favorable consideration in the review process to applicants who mobilize cash and/or third-party in-kind contributions for direct use in the project. (See Part D, Criterion VI.)

5. Program Participants/Beneficiaries

Projects proposed for funding under this announcement must result in direct benefits to low-income people as defined in the most recent Annual Revision of Poverty Income Guidelines published by DHHS and individuals eligible to receive Aid to Families with Dependent Children under Part A of Title IV of the Social Security Act.

Attachment A to this announcement is an excerpt from the guidelines currently in effect. Annual revisions of these guidelines are normally published in the Federal Register in February or early March of each year. Grantees will be required to apply the most recent guidelines throughout the project period. These revised guidelines also may be obtained at public libraries, Congressional offices, or by writing the

Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402.

No other government agency or privately-defined poverty guidelines are applicable for the determination of low-income eligibility for this program.

6. Prohibition on the Use of Funds

The use of funds for new construction or the purchase of real property is prohibited. Costs incurred for rearrangement and alteration of facilities required specifically for the grant program are allowable when specifically approved by OCS in writing.

7. Multiple Submittals

Due to the limited number of grants which will be made under this program, only one proposal from an eligible applicant will be funded by OCS for either the general project fund, the community development corporation set-aside fund or the HUD/HHS Economic Empowerment Demonstration Grantee Set-aside fund.

Part D—Application Procedures

1. Availability of Forms

Attachments B, C and D contain all of the standard forms necessary for the application for awards under this OCS program. These attachments and Parts D and F of this announcement contain all of the instructions required for submittal of applications. These forms may be photocopied for the application.

Copies of the *Federal Register* containing this announcement are available at most local libraries and Congressional District Offices for reproduction. If copies are not available at these sources, they may be obtained by writing or telephoning the office listed under the section entitled "FOR FURTHER INFORMATION" at the beginning of this announcement.

The applicant must be aware that in signing and submitting the application for this award, it is certifying that it will comply with the Federal requirements concerning the drug-free workplace and debarment regulations set forth in Attachments E and F.

Part F contains instructions for the project narrative.

2. Application Submission

Applications must be submitted to FSA by the closing date. Refer to "Closing Date" at the beginning of this document for the specific date for applications submitted under the General Projects category and the Community Development Corporations Set-aside. The Closing Date for applications under the HUD/HHS Economic Empowerment Demonstration

Grantee Set-aside will be published in the Program Announcement covering the HUD/HHS Economic Empowerment Demonstration Program.

Applications may be mailed to: Administration for Children and Families, Division of Grants Management, 6th Floor OFM/DGM, 370 L'Enfant Promenade SW., Washington, DC 20447.

Hand-delivered applications are accepted during normal working hours of 9 a.m. to 4:30 p.m., Monday through Friday, on or prior to the established closing date at: Administration for Children and Families, Division of Grants Management, Sixth Floor, 901 D Street SW., Washington, DC 20447.

An application will be considered to be received on time if sent on or before the closing date as evidenced by a legible U.S. Postal Service postmark or a legibly dated receipt from a commercial carrier. Private metered postmarks will not be considered acceptable as proof of timely mailing. Applications submitted by any means other than through the U.S. Postal Service or commercial carrier shall be considered as acceptable only if physically received at the above address before close of business on or before the deadline date.

Note: Applicants should note that the U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, applicants should check with their local post offices. In some instances packages presented for mailing after a pre-determined time are postmarked with the next day's date. In other cases, postmarks are not routinely placed on packages. Applicants are cautioned to verify that there is a date on the package, and that it is the correct date of mailing, before accepting a receipt.

Applications which have a postmark later than the closing date, or which are hand-delivered after the closing date, will be returned to the sender without consideration in the competition.

Applications, once submitted, are considered final and no additional materials will be accepted.

One signed original application and four copies should be submitted.

3. Intergovernmental Review

This program is covered under Executive Order 12372, "Intergovernmental Review of Federal Programs," and 45 CFR Part 100, "Intergovernmental Review of Department of Health and Human Services Programs and Activities." Under the Order, States may design their own processes for reviewing and commenting on proposed Federal assistance under covered programs.

All States and Territories except Alaska, Idaho, Kansas, Louisiana,

Minnesota, Nebraska, Virginia, American Samoa and Palau have elected to participate in the Executive Order process and have established Single Points of Contact (SPOCs). Applicants from these nine jurisdictions need take no action regarding E.O. 12372. Applicants for projects to be administered by Federally-recognized Indian Tribes are also exempt from the requirements of E.O. 12372. Otherwise, applicants must submit any required material to the SPOCs as soon as possible to alert them of the prospective applications and receive any necessary instructions, so that the OCS can obtain the review SPOC comments as part of the award process. It is imperative that the applicant submit all required materials, if any, to the SPOC and indicate the date of this submittal (or the date of contact if no submittal is required) on the Standard Form 424, item 16a.

Under 45 CFR 100.8(a)(2), a SPOC has 60 days from the application deadline date to comment on proposed new awards. However, because applications are due 60 days from the date of the announcement and the grants are to be awarded in September, there is not sufficient time to allow for a complete SPOC comment period. Therefore, we have reduced the comment period to 30 days [from date of publication]. SPOCs are encouraged to eliminate the submission of routine endorsements as official recommendations. Additionally, SPOCs are requested to clearly differentiate between mere advisory comments and those official State process recommendations which they intend to trigger the "accommodate or explain" rule under 45 CFR 100.10.

When comments are submitted directly to ACF, they should be addressed to: Department of Health and Human Services, Administration for Children and Families, Division of Grants Management, 6th Floor, 370 L'Enfant Promenade SW., Washington, DC 20447.

A list of the Single Points of Contact for each State and Territory is included as appendix G of this announcement.

4. Application Consideration

Applications which meet the screening requirements in sections 5 a. and b. below will be reviewed competitively. Such applications will be referred to reviewers for a numerical score and explanatory comments based solely on responsiveness to the guidelines and evaluation criteria published in this announcement.

Applications will be reviewed by persons outside of the OCS unit which

will be directly responsible for programmatic management of the grant. The results of these reviews will assist the Director and OCS program staff in considering competing applications. Reviewers' scores will weigh heavily in funding decisions but will not be the only factors considered. Applications generally will be considered in order of the average scores assigned by reviewers. However, highly ranked applications are not guaranteed funding since other factors are taken into consideration, including, but not limited to, the timely and proper completion of projects funded with OCS funds granted in the last five (5) years; comments of reviewers and government officials; staff evaluation and input; geographic distribution; previous program performance of applicants; compliance with grant terms under previous DHHS grants; audit reports; investigative reports; and applicant's progress in resolving any final audit disallowances on previous OCS or other Federal agency grants.

OCS reserves the right to discuss applications with other Federal or non-Federal funding sources to ascertain the applicant's performance record.

5. Criteria for Screening Applicants

a. Initial Screening

All timely applicants will receive an acknowledgement with an assigned identification number. This number, along with any identification code, must be referenced in all subsequent communications concerning the application. If an acknowledgement is not received within three weeks after the deadline date, please notify ACF by telephone at (202) 401-9230.

All applications that meet the published deadline for submission will be screened to determine completeness and conformity to the requirements of this announcement. Only those applications meeting the following requirements will be reviewed and evaluated competitively. Others will be returned to the applicants with a notation that they were unacceptable.

(1) The application must contain a Standard Form 424 "Application for Federal Assistance" (SF-424), a budget (SF-424A), and signed "Assurances" (SF-424B) completed according to instructions published in Part F and Attachments B, C, and D of this Program Announcement.

(2) A project narrative must also accompany the standard forms.

(3) The SF-424 and the SF-424B must be signed by an official of the organization applying for the grant who

has authority to obligate the organization legally.

b. Pre-Rating Review

Applications which pass the initial screening will be forwarded to reviewers and/or OCS staff prior to the programmatic review to verify that the applications comply with this Program Announcement in the following areas:

(1) *Eligibility*: Applicant meets the eligibility requirements described in Part C, item 1. Proof of non-profit status must be included in the Appendices to the Project Narrative (see part F, 6).

(2) *Target Populations*: The application clearly targets the specific outcomes and benefits of the project to those types of low-income participants and beneficiaries described in Part C, 5, Program Participants/Beneficiaries and in Part B, 3, for the HUD/HHS Economic Empowerment Demonstration Grantee Set-aside.

(3) *Grant Amount*: The amount of funds requested does not exceed the limits indicated in Part C, 2, b.

(4) *Cooperative Partnership Agreement*: The application contains a written agreement or letter of intent signed by an official of the agency responsible for administering the JOBS program in the area to be served.

(5) *Project Evaluation*: A third-party project evaluation plan is included.

(6) *Third-Party Private Employers*: All applications are not required to include third-party private employers, however when this activity is a part of the proposed project this requirement must be included in the application.

(7) *Eligibility Agreement*: (Applicable to HUD/HHS Economic Empowerment Grantee Set-aside only when applicant is other than a non-profit organization which applied for funds under the HUD/HHS Economic Empowerment Demonstration Program). The application contains a written agreement between the non-profit applicant and the applicant for funds under the HUD/HHS Economic Empowerment Demonstration Program confirming that the jobs will be created for low-income residents of the public or Indian housing project.

An application will be disqualified from the competition and returned if it does not conform to all of the above requirements.

c. Review Criteria

Applications which pass the pre-rating review will be assessed and scored by reviewers. Each reviewer will give a numerical score for each application reviewed. These numerical scores will be supported by explanatory statements on a formal rating form

describing major strengths and weaknesses under each applicable criterion published in the announcement.

The in-depth assessment and review process will use the following criteria coupled with the specific requirements described in Part B. Scoring will be based on a total of 100 points.

(Note: the following review criteria reiterate collection of information requirements contained in Part F of this announcement. These requirements are approved under OMB Control Number 0970-0062.)

Criteria for Review and Assessment of All Applications Criterion I: Analysis of Need (Maximum: 10 points)

The application documents that the community in which the project is proposing to operate has a high percentage of individuals receiving Aid to Families with Dependent Children under Title IV-A of the Social Security Act.

Criterion II: Organizational Experience in Program Area and Staff Responsibilities (Maximum: 10 points)

(i) Organizational Experience in Program Area (0-5 points)

Documentation provided indicates that projects previously undertaken have been relevant and effective and have provided permanent benefits to the low-income population.

The organization has detailed competence in the specific program area and as a deliverer with expertise in the area of technical assistance. The applicant has demonstrated the ability to implement major activities in such areas as human development, business development, or financial services; the ability to mobilize funds from sources such as the private sector (corporations, banks, etc.), foundations, the public sector, including State and local governments, or individuals; that it has a sound organizational structure and proven organizational capability; and an ability to develop and maintain a stable program in terms of business or job creation activities that will provide needed permanent jobs and/or business development opportunities.

(Note: The maximum number of points will be given only to those organizations with a demonstrated record of achievement in promoting job creation and enterprise opportunities for low-income people.)

(ii) Staff Skills, Resources and Responsibilities (0-5 points)

The application describes in brief resume form the experience and skills of the project director who is not only well

qualified, but his/her professional capabilities are relevant to the successful implementation of the project. If the key staff person has not yet been identified, the application contains a comprehensive position description which indicates that the responsibilities to be assigned to the project director are relevant to the successful implementation of the project.

The applicant has adequate facilities and resources (i.e. space and equipment) to successfully carry out the work plan. The assigned responsibilities of the staff are appropriate to the tasks identified for the project and sufficient time of senior staff will be budgeted to assure timely implementation and cost effective management of the project.

The applicant has identified the person responsible for the third party evaluation and that person appears to be well qualified or, if not yet identified, an adequate position description has been included.

Criterion III: Project Implementation
(Maximum: 25 points)

The work plan and Business Plan(s), where appropriate, are both sound and feasible. The project is responsive to the needs identified in the Analysis of Need. The work plan clearly details key interventions including the types of technical and financial assistance to be provided the recipients, the level of effort, as well as other activities. If the technical and/or financial assistance is to be provided to pre-identified businesses that will be expanded or franchised, written commitments from the businesses are included with the application. The work program sets forth realistic quarterly time targets by which the various work tasks will be completed. Critical issues or potential problems that might impact negatively on the project are defined and the project objectives can be reasonably attained despite such potential problems. The application provides a description of the process evaluation which will culminate in the development of a policies and procedures manual.

Criterion IV: Significant and Beneficial Impact
(Maximum: 25 points)

(i) **Quality of JOBS/Business Opportunities** (0-15 points)

The proposed project is expected to produce permanent and measurable results that will reduce the incidence of poverty in the community. Expected results are quantifiable in terms of newly-created, permanent, full-time jobs or business opportunities developed. In developing business opportunities and self-employment for low-income

individuals the applicant proposes, at a minimum, to provide basic business planning and management concepts, and assistance in preparing a business plan and loan package. The application documents that:

- The business opportunities to be developed for eligible participants will contribute significantly to their progress toward self-sufficiency; and/or
- Jobs to be created for eligible participants will contribute significantly to their progress toward self-sufficiency, i.e. they provide, for example, wages that exceed the minimum wage, plus benefits such as health insurance, transportation, child care; career development opportunities;

(ii) **Cost-per-job** (0-10 points)

During the project period the proposed project will create new, permanent jobs or business opportunities for low-income residents at a cost-per-job below \$15,000 in OCS funds. [Note: Except in those instances where independent reviewers identify extenuating circumstances related to business development activities, the maximum number of points will be given only to those applicants proposing cost-per-job created estimates of \$5,000 or less of OCS requested funds. Higher cost-per-job estimates will receive correspondingly fewer points.]

Criterion V: Third-Party Evaluation
(Maximum: 10 points)

The Evaluation Plan:

- Includes a specific working definition (consistent with the broad definition contained in Part A) of "self-sufficiency" for this project that permits the measurement of incremental movement of eligible individuals and their families from dependency toward self-sufficiency. (0-2 points)
- Describe testable hypothesis that is significant and relevant for the target population. (0-2 points)
- Provides for the completion of a process evaluation covering the following elements: the cooperative partnership, staffing, all pertinent policies and procedures, technical and financial assistance to private employers, client outreach, services and processes for service provision, applicant and community linkages, other community resources, changes from original plan, critical elements of program implementation, and an implementation summary. (0-3 points)
- Provides for the completion of an outcomes evaluation which describes the project design, sample size,

subject selection, interventions, outcomes, measurement instruments, time and number of measurements, data collection procedures, and analytical techniques. The outcomes evaluation report will yield findings, an interpretation of findings, and identify major issues for replication. (0-3 points)

Criterion VI: Public-Private Partnerships
(Maximum: 15 points)

- The cooperative partnership arrangements are fully described and clearly related to the objectives of the proposed project, and the activities include one or more of the mandatory or optional components of the State's JOBS program as described in Part B. (0-10 points)
- The application documents that the applicant will mobilize from public and/or private sources cash and/or third-party in-kind contributions. Applications documenting that the value of such contributions will be at least equal to the OCS funds requested will receive the maximum number of points for this criterion. Lesser contributions will be given consideration based upon the value documented. (0-5 points)

Criterion VII: Budget Appropriateness and Reasonableness
(Maximum: 5 points)

Funds requested are commensurate with the level of effort necessary to accomplish the goals and objectives of the project. The application includes a detailed budget break-down for each of the budget categories in the SF-424A. The applicant presents a reasonable administrative cost if an indirect cost rate has not been negotiated with the cognizant Federal agency (See Part F, 2, Section B, Line 6j).

The estimated cost to the government of the project also is reasonable in relation to the anticipated results.

Part E—Contents of Application and Receipt Process

1. Contents of Application

Each application should include one original and four additional copies of the following:

- a. A completed Standard Form 424 which has been signed by an official of the organization applying for the grant who has authority to obligate the organization legally. The applicant must be aware that in signing and submitting the application for this award, it is certifying that it will comply with the Federal requirements concerning the drug-free workplace and debarment

regulations set forth in Attachments E and F.

b. "Budget Information-Non-Construction Programs" (SF-424A);

c. A filled out signed, and dated "Assurances-Non-Construction Programs" (SF-424B);

d. Restrictions on Lobbying, Certification for Contracts, Grants, Loans, and Cooperative Agreements: fill out, sign and date form found at attachment H.

e. Disclosure of Lobbying Activities, SF-LLL: Fill out, sign, and date form found at Attachment H, if appropriate.

f. A Project Narrative consisting of the following elements preceded by a consecutively numbered Table of Contents that will describe the project in the following order:

- (i) Eligibility Confirmation
- (ii) Analysis of Need
- (iii) Organizational Experience and Staff Responsibilities
- (iv) Work Program/Business Plan
- (v) Third-Party Evaluation

g. Cooperative Partnership Agreement.

h. Eligibility Agreement (for certain applicants applying under Part B, 3.).

i. Appendices, including proof of non-profit status; proof that the organization is a community development corporation, if applying under the CDC Set-aside; commitment from officials of businesses that will be expanded or from franchises, where applicable; Single Point of Contact comments if applicable; and resumes. The original SF-424 must bear the signature of the authorizing representative of the applicant organization.

The total number of pages for the entire application package should not exceed 50 pages.

Applications must be uniform in composition since OCS may find it necessary to duplicate them for review purposes. Therefore, applications must be submitted on white 8½ × 11 inch paper only. They must not include colored, oversized or folded materials. Do not include organizational brochures or other promotional materials, slides, films, clips, etc. in the proposal. They will be discarded if included. The applications should be two-holed punched at the top center and fastened separately with a compressor slide paper fastener, such as an ACCO clip, or a binder clip. The submission of bound applications, or applications enclosed in binders, if specifically discouraged.

Attachment J provides a checklist to applicants in preparing a complete application package.

2. Acknowledgement of Receipt

Applicants who meet the initial screening criteria outlined in Section D, subsection 5.a. will receive an acknowledgement postcard with an assigned identification number. Applicants are requested to supply a self-addressed mailing label with their application which can be attached to this acknowledgement postcard. This number and the program letter code must be referred to in all subsequent communication with OCS concerning the application. If an acknowledgement is not received within three weeks after the deadline date, please notify ACF by telephone (202) 401-9230.

Part F—Instructions for Completing Application Package

(Approved by the Office of Management and Budget under Control Number 0970-0062.)

The standard forms attached to this announcement shall be used to apply for funds under this program announcement.

It is suggested that you reproduce the SF-424 and SF-424A, and type your application on the copies. If an item on the SF-424 cannot be answered or does not appear to be related or relevant to the assistance requested, write "NA" for "Not Applicable."

Prepare your application in accordance with the standard instructions given in Attachments B and C corresponding to the forms, as well as the OCS specific instructions set forth below:

1. SF-424 "Application for Federal Assistance"

Item

1. For the purposes of this announcement, all submissions are considered "Applications"; there are no "Pre-Applications."

5/6. The legal name of the applicant must match that listed as corresponding to the Employer Identification Number. Where the applicant is a previous Department of Health and Human Services grantee, enter the Central Registry System Employee Identification Number (CRS/EIN) and the Payment Identifying Number, if one has been assigned, in the Block entitled "Federal Identifier" located at the top right hand corner of the form.

7. If the applicant is a non-profit corporation, enter "N" in the box and specify "non-profit corporation" in the space marked "Other." Proof of non-profit status, such as IRS determination, Article of Incorporation, or by-laws, must be included as an appendix to the project narrative.

8. For the purposes of this announcement, all applications are "New".

9. Enter "DHHS-FSA-OCS".

10. The Catalog of Federal Domestic Assistance number for OCS programs covered under this announcement is 93.021. The title is "Jobs Opportunities for Low-Income Individuals Program (Demonstration Projects)".

11. In addition to a brief descriptive title of the project, indicate for which priority area funds are being requested. The following letter designations must be used:

JO—General Project

JS—Community Development

Corporation Set-Aside

JH—HUD/HHS Economic

Empowerment Demonstration Grantee Set-Aside

2. SF-424A—"Budget Information—Non-Construction Programs"

See Instructions accompanying this form as well as the instructions set forth below:

In completing these sections, the "Federal Funds" budget entries will relate to the requested OCS funds only, and "Non-Federal" will include mobilized funds from all other sources—applicant, state, local, and other. Federal funds other than requested OCS funding should be included in "Non-Federal" entries.

The budget forms in SF-424A are only to be used to present grant administrative costs and major budget categories. Financial data that is generated as part of a project Business Plan or other internal project cost data must be separate and should appear as part of the project Business Plan or other project implementation data.

Sections A and D of SF-424A must contain entries for both Federal (OCS) and non-Federal (mobilized) funds. Section B contains entries for Federal (OCS) funds only. Clearly identified continuation sheets in SF-424A format should be used as necessary.

Section A—Budget Summary

Lines 1-4

Col. (a):

Line 1 Enter "Jobs Opportunities for Low-Income Individuals".

Col. (b):

Line 1 Enter [To Be Inserted].

Col. (c) and (d):

Columns (c) and (d) are not relevant to this program and should not be completed.

Column (e)-(g):

For line 1, enter in columns (e), (f) and (g) the appropriate amounts needed to

support the project for the entire project period.

Line 5 Enter the figures from Line 1 for all columns completed (e), (f), and (g).

Section B—Budget Categories

Allowability of costs are governed by the cost principles set forth in OMB Circular A-122 and 45 CFR Part 74.

Columns (1) and (5):

In OCS applications, it is only necessary to complete Columns (2) and (3). This section (B) should contain entries for OCS funds only.

Column 1: Enter the first budget period of 12 months.

Column 2: Enter the second budget period of 12 months.

Column 3: Enter the third budget period of 12 months.

Column 4: Leave blank.

Column 5: Enter the total requirements for Federal funds by the Object Class Categories of this section.

A detailed budget justification should be included separately to explain fully and justify major terms, as indicated below.

Personnel—Line 6a: Enter the total costs of salaries and wages of applicant/grantee staff only. Do not include costs of consultants or personnel costs of delegate agencies or of specific project(s) or businesses to be financed by the applicant.

Fringe Benefits—Line 6b: Enter the total costs of fringe benefits unless treated as part of an approved indirect cost rate which is entered on Line 6j. Provide a breakdown of amounts and percentages that comprise fringe benefit costs.

Travel—Line 6c: Enter total costs of out-of-town travel by employees of the project. Do not enter costs for consultant's travel or local transportation. Provide justification for requested travel costs. (See Line 6h and Line 21 for additional instructions). Three trips to Washington, DC should be included for the project director.

Equipment—Line 6d: Enter the total costs of all non-expendable personal property to be acquired by the project. "Non-expendable personal property" means tangible personal property having an acquisition cost per unit of \$500 or more for non-profit organizations and \$5,000 or more for public organizations and having a useful life of one year. Only equipment required to conduct the project may be purchased with Federal funds. An applicant may use its own definition of non-expendable personal property, provided that such a definition would at least include all tangible personal property as defined in the preceding sentence. (See Line 21 for additional requirements).

Supplies—Line 6e: Enter the total costs of all tangible personal property (supplies) other than that included on Line 6d.

Contractual—Line 6f: Enter the total costs of all contracts, including (1) third party evaluator—including the costs of three trips to Washington, DC, (2) procurement contracts (except those which belong on other lines such as equipment, supplies, etc.) and (3) contracts with secondary recipient organizations including delegate agencies and specific project(s) or businesses to be financed by the applicant. Also include any contracts with organizations for the provision of technical assistance. Do not include payments to individual service contractors on this line. If available at the time of application, attach a list of contractors indicating the name of the organization, the purpose of the contract(s) and the estimated dollar amount of the award. If the name of the contractor(s), scope of work, or estimated total are not available or have not been negotiated, include these in Line h, "Other."

Note: Whenever the applicant intends to delegate part of the program to another agency, the applicant must submit sections A and B of this form (SF-424A), completed for each delegate agency by agency title, along with the required supporting information referenced in the applicable instructions. The total costs of all such agencies will be part of the amount shown on Line 6f. Provide back-up documentation identifying the name of the contractor(s), purpose of the contract(s) and major cost elements.

Construction—Line 6g: Not applicable.

Other—Line 6h: Enter the total of all other costs. Such costs, where applicable, may include but are not limited to insurance, food, medical and dental costs (noncontractual), fees and travel paid directly to individual consultants, local transportation (all travel which does not require per diem is considered local travel), space and equipment rentals, printing and publication, computer use, training costs, including tuition and stipends, training service costs including wage payments to individuals and supportive service payments, and staff development costs.

Total Direct Charges—Line 6i: Show the total of Lines 6a through 6h.

Indirect Charges—Line 6j: Enter the total amount of indirect costs. This line should be used only when the applicant currently has an indirect cost rate approved by the Department of Health and Human Services or another cognizant Federal agency. With the exception of local governments, applicants should enclose a copy of the

current rate agreement if it was negotiated with a cognizant Federal agency other than the Department of Health and Human Services.

If the applicant organization is in the process of initially developing or renegotiating a rate, it should immediately upon notification that an award will be made, develop a tentative indirect cost rate proposal based on its most recently completed fiscal year in accordance with the principles set forth in the pertinent DHHS Guide for Establishing Indirect Cost Rates, and submit it to the appropriate DHHS Regional Office.

Totals—Line 6k: Enter the total amounts of Lines 6i and 6j. The total amount shown in Section B, Column (5), Line 6k, should be the same as the amount shown in Section A, Line 5, Column (e).

Program Income—Line 7: Enter the estimated amount of income, if any, expected to be generated from this project. Separately show expected program income generated from OCS support and income generated from other mobilized funds. Do not add or subtract this amount from the budget total. Show the nature and source of income in the program narrative statement.

Column 5: Carry totals from Column 1 to Column 5 for all line items.

Section C—Non-Federal Resources

This section is to record the amounts of "non-Federal" resources that will be used to support the project. "Non-Federal" resources mean those other than OCS funds. Therefore, mobilized funds from other Federal programs should be entered on these lines. Provide a brief listing of the non-Federal resources on a separate sheet and describe whether it is a grantee-incurred cost or a third-party in-kind contribution. The firm commitment of these resources must be documented and submitted with the application in order to be given credit in the Public-Private Partnerships criterion.

Except in unusual situations, this documentation must be in the form of letters of commitment from the organization(s)/individuals from which funds will be received.

Line 8:

Column (a): Enter the project title.

Column (b): Enter the amount of contributions to be made by the applicant to the project.

Column (c): Enter the State contribution. If the applicant is a State agency, enter the non-Federal funds to be contributed by the State other than the applicant.

Column (d): Enter the amount of cash and third-party in-kind contributions to be made from all other sources.

Column (e): Enter the total of columns (b), (c), and (d).

Lines 9, 10, and 11 should be left blank.

Line 12: Carry the total of each column of Line 8, (b) through (e). The amount in Column (e) should be equal to the amount on Section A, Line 5, column (f).

Section D—Forecasted Cash Needs

Line 13—Enter the amount of Federal (OCS) cash needed for this grant, by quarter, during the first 12 month budget period.

Line 14—Enter the amount of cash from all other sources needed by quarter during the first year.

Line 15—Enter the total of Lines 13 and 14.

Section E—Budget Estimates of Federal Funds Needed for Balance of Project(s)

Not applicable.

Section F—Other Budget Information

Line 21—Use this space and continuation sheets as necessary to fully explain and justify the major items included in the budget categories shown in Section B. Include sufficient detail to facilitate determination of allowability, relevance to the project, and cost benefits. Particular attention must be given to the explanation of any requested direct cost budget item which requires explicit approval by the Federal agency. Budget items which require identification and justification shall include, but not be limited to, the following:

A. Salary amounts and percentage of time worked for those key individuals who are identified in the project narrative;

B. any foreign travel;

C. a list of all equipment and estimated cost of each item to be purchased wholly or in part with grant funds which meet the definition of nonexpendable personal property provided on Line 6d, Section B. Need for equipment must be supported in program narrative.

D. Contractual: major items or groups of smaller items; and

E. Other: group into major categories all costs for consultants, local transportation, space, rental, training allowances, staff training, computer equipment, etc. Provide a complete breakdown of all costs that make up this category.

Line 22—Enter the type of HHS or other Federal agency approved indirect cost rate (provisional, predetermined, final or fixed) that will be in effect

during the funding period, the estimated amount of the base to which the rate is applied and the total indirect expense. Also, enter the date the rate was approved, where applicable. Attach a copy of the rate agreement if it was negotiated with a Federal agency other than the Department of Health and Human Services.

Line 23—Provide any other explanations and continuation sheets required or deemed necessary to justify or explain the budget information.

3. SF-424B "Assurances-Non-Construction"

All applicants must fill out, sign, date and return the "Assurances" with the application.

4. Restriction on Lobbying Activities—Certification for Contracts, Grants, Loans and Cooperative Agreements

Fill out, sign and date the form found at Attachment H.

5. Disclosure of Lobbying Activities

SF-ILL: Fill out, sign and date the form found at Attachment M, in application

6. Project Narrative

The project narrative must address the purposes of this Announcement as set forth in Part B. The narrative should provide information on how the application meets the evaluation criteria in Part D, Section 5c of this Program Announcement and should follow the format below:

a. Eligibility Confirmation

This section must explain how the applicant has complied with each of the basic requirements listed in Part D, 5b (1)-(7), i.e. (1) that the applicant meets the eligibility requirements; (2) the application clearly targets the specific outcomes and benefits of the project to eligible participants/beneficiaries; (3) the amount of funds requested does not exceed the limits indicated in Part C, Section 2, b; (4) documentation regarding cooperative agreements is included; (5) a third-party project evaluation plan is included; (6) when part of the proposed project, third-party private employers are included; and (7) an eligibility agreement for certain applicants under Part B, 3 is included.

b. Analysis of Need

The application should include a description of the geographic area and population to be served as well as a discussion of the nature and extent of the problem to be solved. It should indicate what the unemployment rates are in the geographic areas to be served and (to the extent practicable) the jobs

available and skills necessary to fill those vacancies in such areas. It should also include documentation regarding the number and percentage of individuals receiving Aid to Families with Dependent Children and the total number of individuals which make up the population in the area where the project will operate.

c. Organizational Experience and Staff Responsibilities

(i) *Organizational Experience.* Documentation must be provided which addresses the relevance and effectiveness of projects previously undertaken and especially their cost effectiveness, the relevance and effectiveness of any services provided, and the permanent benefits provided to the low-income population. The applicant must address its competence and experience as a deliverer with expertise in the area of technical assistance. Information provided by the applicant must also address related achievements and competence of each cooperating organization or business.

The applicant should describe its organizational structure.

The applicant must also document a firmly established and quantifiable performance record that shows the following:

- The ability to implement major activities such as business development, human development, and/or financial services;
- Successful working relationships within the community including public officials, financial institutions, corporations, other community organizations and residents;
- A sound organizational structure in terms of (a) management stability, and (b) organizational capability;
- An ability to develop and maintain a stable program in terms of business, or community development activities that will provide needed permanent jobs and/or business development opportunities;
- Sound administrative and fiscal systems and controls.

(ii) *Staff Skills, Resources and Responsibilities.* The application must fully describe (e.g. a resume or position description) the experience and skills of the proposed project director showing that the individual is not only well qualified but that his/her professional capabilities are relevant to the successful implementation of the project.

The application must fully describe the experience and skills of the primary person(s) responsible for conducting the third-party evaluation or, if that person

has not yet been identified, include a position description.

The application must include statements regarding who will have the responsibilities of the chief executive officer, who will be responsible for grant coordination with OCS, and how the assigned responsibilities of the staff are appropriate to the tasks identified for the project. It must show clearly that sufficient time of senior staff will be budgeted to assure timely implementation and cost effective management of the project.

The applicant must describe the facilities and resources (i.e. space, equipment, etc.) that it has available to carry out the project.

d. Work Program

(i) *General.* The application must contain a detailed and specific work program and Business Plan(s), where appropriate, that are both sound and feasible.

The work program will be evaluated according to Criteria III and IV set forth in Part D of this announcement: Project Implementation and Significant and Beneficial Impact.

Projects funded under this announcement must be designed to produce permanent and measurable results that will reduce the incidence of poverty in the areas targeted. The OCS grant funds, in combination with private and/or other public resources, must be targeted into areas with a high percentage of individuals receiving Aid to Families with Dependent Children. Projects must be designed to achieve the specific goals defined in this Program Announcement.

Each applicant also must include the following in its project design: (1) A hypothesis or hypotheses that includes the key interventions and permits measurement of the extent to which the target population can achieve greater self-sufficiency as a result of its involvement in the project; the hypothesis(es) should be significant, relevant and testable to determine its validity; (2) description of both the major interventions and the methods the applicant will use to measure the extent to which the interventions have caused the eligible participants to achieve greater self-sufficiency; (3) the rationale for the approach being proposed to overcome the problem which will be addressed by the project, an explanation showing how the approach proposed by the applicant is a departure from or a significant modification of previous and current approaches, and why the applicant believes that demonstrating this approach will lead to positive outcomes; (4) a thorough description of

the technical and financial assistance to be provided identifying recipients and level of effort and other activities that will be carried out to demonstrate the project's ability to meet the goals of this Announcement with inclusion of quarterly target dates by which the major events will occur; (5) inclusion of measurable objectives, intended project outcomes, and intended impact on the problem(s) that are being addressed; and (6) critical issues or potential problems that might impact negatively on the project and how the project objectives will be attained despite such potential problems.

If the rearrangement or alteration of facilities will be required in implementing the project, the applicant must describe and justify such changes. Specific approval from OCS will be required prior to undertaking such changes.

If an applicant is proposing a project which will affect a property listed in, or eligible for inclusion in the National Register of Historic Places, it must identify this property in the narrative and explain how it has complied with the provisions of Section 106 of the National Historic Preservation Act of 1966 as amended. If there is any question as to whether the property is listed in or eligible for inclusion in the National Register of Historic Places, the applicant should consult with the State Historic Preservation Officer. (See Attachment D: SF-424B, Item 13 for additional guidance.) The applicant should contact OCS early in the development of its application for instructions regarding compliance with the Act and data required to be submitted to the Department of Health and Human Services. Failure to comply with the cited Act may result in the application being ineligible for funding consideration.

(ii) *Business Plan.* If the applicant is proposing to use project funds to provide technical and/or financial assistance to a third-party private employer to develop or expand a pre-identified business, the application must include a complete Business Plan. Technical assistance provided to low-income entrepreneurs in the completion of a business plan should include at a minimum, elements 1-5, 8, 9 and 11 found in this subsection. An application that does not include a Business Plan where one is appropriate may be disqualified and returned to the applicant.

The Business Plan is one of the major components that will be evaluated by OCS to determine the feasibility of a Jobs Opportunities project. It must be

well prepared and address all the major issues noted herein.

The following guidelines show what should be included in order to produce a complete and professional Business Plan which makes an orderly presentation of the facts necessary to be judged responsive to the program announcement.

Because the guidelines were written to cover a variety of possibilities, rigid adherence to them is not possible nor even desirable for all projects. For example, a plan for a service business would not require a discussion of manufacturing nor product design.

The Business Plan should include the following:

1. *The business and its industry.* This section should describe the nature and history of the business and provide some background on its industry.

a. *The Business:* as a legal entity; the general business category;

b. *Description and Discussion of Industry:* Current status and prospects for the industry;

2. *Products and Services:* This section deals with the following:

a. *Description:* Describe in detail the products or services to be sold.

b. *Proprietary Position:* Describe proprietary features if any of the product, e.g. patents, trade secrets.

c. *Potential:* Features of the product or service that may give it an advantage over the competition.

3. *Market Research and Evaluation:* This section should present sufficient information to show that the product or service has a substantial market and can achieve sales in the face of competition.

a. *Customers:* Describe the actual and potential purchasers for the product or service by market segment.

b. *Market Size and Trends:* State the size of the current total market for the product or service offered.

c. *Competition:* An assessment of the strengths and weaknesses of competitive products and services.

d. *Estimated Market Share and Sales:* Describe the characteristics of the product or service that will make it competitive in the current market.

4. *Marketing Plan:* The marketing plan should detail the product, pricing, distribution, and promotion strategies that will be used to achieve the estimated market share and sales projections. The marketing plan must describe what is to be done, how it will be done and who will do it. The plan should address the following topics—Overall Marketing Strategy, Packaging, Service and Warranty, Pricing, Distribution and Promotion.

5. *Design and Development Plans:* If the product, process or service of the proposed venture requires any design and development before it is ready to be placed on the market, the nature and extent and cost of this work should be fully discussed. The section should cover items such as Development Status and Tasks, Difficulties and Risks, Product Improvement and New Products, and Costs.

6. *Manufacturing and Operations Plan:* A manufacturing and operations plan should describe the kind of facilities, plant location, space, capital equipment and labor force (part and/or full time and wage structure) that are required to provide the company's product or service.

7. *Management Team:* The management team is the key in starting and operating a successful business. The management team should be committed with a proper balance of technical, managerial and business skills, and experience in doing what is proposed. This section must include a description of: the key management personnel and their primary duties; compensation and/or ownership; the organizational structure; Board of Directors; management assistance and training needs; and supporting professional services.

8. *Overall Schedule:* A schedule that shows the timing and interrelationships of the major events necessary to launch the venture and realize its objectives. Prepare, as part of this section, a month-by-month schedule that shows the timing of such activities as product development, market planning, sales programs, and production and operations. Sufficient detail should be included to show the timing of the primary tasks required to accomplish each activity.

9. *Critical Risks and Assumptions:* The development of a business has risks and problems and the Business Plan should contain some explicit assumptions about them. Accordingly, identify and discuss the critical assumptions in the Business Plan and the major problems that will have to be solved to develop the venture. This should include a description of the risks and critical assumptions relating to the industry, the venture, its personnel, the product's market appeal, and the timing and financing of the venture.

10. *Community Benefits:* The proposed project must contribute to economic, community and human development within the project's target area. A section that describes and discusses the potential economic and non-economic benefits to low-income members of the community must be included as well as

a description of the strategy that will be used to identify and hire low-income individuals not being served by public assistance programs and how linkages with community agencies/organizations administering the JOBS program will be developed if such linkages are not completely detailed in the cooperative partnership agreement.

11. *The Financial Plan:* The Financial Plan is basic to the development of a Business Plan. Its purpose is to indicate the project's potential and the timetable for financial self-sufficiency. In developing the Financial Plan, the following exhibits must be prepared for the first three years of the business' operation: (a) Profit and Loss Forecasts—quarterly for each year; (b) Cash Flow Projections—quarterly for each year; (c) pro forma balance sheets—quarterly for each year; (d) initial uses of project funds; and (e) any future capital requirements and sources.

e. *Third Party Evaluation.* A plan for a methodologically sound third-party (i.e. independent) evaluation of the demonstration project must be included in the application. The applicant at a minimum, should ensure that the following criteria are used in selecting the third-party evaluator:

The individual must be:

(i) Experienced in conducting experimental or quasi experimental evaluations;

(ii) Knowledgeable and sensitive to the complexity of problems the target population faces;

(iii) Knowledgeable of issues surrounding job creation, expansion of businesses, creation of self-employment or small business opportunities and economic development in low-income neighborhoods; and

(iv) Able to access comparable research findings and data.

The evaluation plan must:

(i) Include provisions for a process evaluation, culminating in written policies and procedures;

(ii) Include a specific working definition of self-sufficiency, consistent with the definition contained in Part A, 3., that permits the measurement of incremental movement of eligible participants and their families from dependency or reliance on inadequate incomes toward self-sufficiency;

(iii) A testable hypothesis that permits measurement of the extent to which the target population has achieved greater self-sufficiency as a result of its involvement in the project;

(iv) Include an adequate sample size in both the participant and nonparticipant comparison group as well as a rationale for subject selection;

(v) Clearly identify the changes (outcome objectives) to be produced, the activities (interventions) that will produce the changes, and the methods (measurement instruments, performance measures, and data collection procedures) for measuring the performance as well as the time and number of measurements and statistical procedures; (NOTE: "Interventions" should be included for the following groups: private employers; eligible participants interested in self-employment ventures; and eligible participants interested in employment opportunities.) and

(vi) Include procedures that will be used to (a) compare information about participants and nonparticipants—the comparison groups—and, (b) isolate and systematically assess competing explanations for the observed outcomes. Where the use of comparison groups is not practicable, the applicant must propose an alternative method to validate the accomplishments of the project; and

(vii) Include a realistic plan for disseminating the project findings, once they have been approved by OCS, to other interested organizations or public agencies.

The applicant must include an assurance that the evaluation will be conducted by an independent entity, i.e. an entity organizationally distinct from, and not under the control of, the applicant.

Applicants who anticipate evaluation procurements that will exceed \$10,000 and will be awarded without competition should include a sole source justification in the proposal. For successful applicants, the grant award letter accompanying the Notice of Grant Award will comprise approval of this action.

f. *Cooperative Partnership Agreements.* A cooperative partnership agreement should be attached to the proposal. The agreement should describe the cooperative relationship between the applicant and the agency responsible for administering the Job Opportunities and Basic Skills (JOBS) training program (as provided for under Title IV of the Social Security Act). The agreement, or letter of intent, must be signed by both parties and must include specific activities and/or actions that each of these entities will carry out over the course of the project period in support of the project. The agreement, or letter of intent, must cover at a minimum activities related to one or more of the mandatory or optional components offered by the appropriate State's JOBS

program. The letter of intent must be contingent only on receipt of OCS funds.

g. *Eligibility Agreement* (for certain applicants under Part B, 3.). If the applicant is not an organization applying for a HUD/HHS Economic Empowerment Demonstration Program grant, the application must include a written agreement between the applicant and such an organization which contains specific language confirming that the jobs that they propose to create under this set-aside will be filled by residents of a public or Indian housing project. The agreement must also describe the cooperative relationship, including specific activities and/or actions, each of these entities proposes to carry out in support of the project and the mechanism(s) to be used in coordinating those activities if the project is funded by OCS.

Part G—Post Award Information and Reporting Requirements

Following approval of the applications selected for funding, notice of project approval and authority to draw down project funds will be made in writing. The official award document is the Notice of Grant Award which provides the amount of Federal funds approved for use in the project, the project and budget period for which support is provided, the terms and conditions of the award, and the total project period for which support is contemplated.

Project directors and chief evaluators will be required to attend three national evaluation workshops in Washington, DC. A planning evaluation workshop will be scheduled shortly after the effective date of the grant. They also will be required to attend, as presenters, an interim evaluation workshop and final evaluation workshop on utilization and dissemination to be held at the end of the project period.

Grantees will be required to submit quarterly progress and financial reports (SF 269) as well as a final progress and financial reports within 90 days of the expiration of the grant. Interim evaluation reports, along with a written policies and procedures manual based on the findings of the process evaluation, will be due 30 days after the

first twelve months, and the second interim evaluation 30 days after the second twelve months, and a final evaluation report will be due 180 days after the expiration of the grant. This final report will cover 36 months of activities related to project participants.

Grantees are subject to the audit requirements in 45 CFR Parts 74 (non-profit organization) and OMB Circular A-133.

Section 319 of Public Law 101-121, signed into law on October 23, 1989, imposes new prohibitions and requirements for disclosure and certification related to lobbying on recipients of Federal contracts, grants, cooperative agreements, and loans. It provides limited exemptions for Indian tribes and tribal organizations. Current and prospective recipients (and their sub-tier contractors and/or grantees) are prohibited from using appropriated funds for lobbying Congress or any Federal agency in connection with the award of a contract, grant, cooperative agreement or loan. In addition, for each award action in excess of \$100,000 (or \$150,000 for loans) the law requires recipients and their sub-tier contractors and/or subgrantees (1) to certify that they have neither used nor will use any appropriated funds for payment to lobbyists, (2) to submit a declaration setting forth whether payments to lobbyists have been or will be made out of nonappropriated funds and, if so, the name, address, payment details, and purpose of any agreements with such lobbyists whom recipients or their sub-tier contractors or subgrantees will pay with the nonappropriated funds and (3) to file quarterly up-dates about the use of lobbyists if an event occurs that materially affects the accuracy of the information submitted by way of declaration and certification. The law establishes civil penalties for noncompliance and is effective with respect to contracts, grants, cooperative agreements and loans entered into or made on or after December 23, 1989. See Attachment H for certification and disclosure forms to be submitted with the applications for this program.

Attachment I indicates the regulations which apply to all applicants/grantees under the Discretionary Grants Program.

Eunice S. Thomas,
Director, Office of Community Services.

Attachment A—1991 Poverty Income Guidelines for all States (Except Alaska and Hawaii) and the District of Columbia

Size of family unit	Poverty guideline
1.....	\$6,620
2.....	8,880
3.....	11,140
4.....	13,400
5.....	15,660
6.....	17,920
7.....	20,180
8.....	22,440

For family units with more than 8 members, add \$2,260 for each additional member.

Poverty Income Guidelines for Alaska

Size of family unit	Poverty guideline
1.....	\$8,290
2.....	11,110
3.....	13,930
4.....	16,750
5.....	19,570
6.....	22,390
7.....	25,210
8.....	28,030

For family units with more than 8 members, add \$2,820 for each additional member.

Poverty Income Guidelines for Hawaii

Size of family unit	Poverty guideline
1.....	\$7,610
2.....	10,210
3.....	12,810
4.....	15,410
5.....	18,010
6.....	20,610
7.....	23,210
8.....	25,810

For family units with more than 8 members, add \$2,600 for each additional member.

BILLING CODE 4150-04-M

ATTACHMENT B—SF 424, APPLICATION FOR FEDERAL ASSISTANCE AND INSTRUCTIONS FOR THE SF-424

OMB Approval No. 0348-0043

APPLICATION FOR FEDERAL ASSISTANCE

1. TYPE OF SUBMISSION: Application <input type="checkbox"/> Construction <input type="checkbox"/> Non-Construction Preapplication <input type="checkbox"/> Construction <input type="checkbox"/> Non-Construction		2. DATE SUBMITTED	Applicant Identifier
3. DATE RECEIVED BY STATE		State Application Identifier	
4. DATE RECEIVED BY FEDERAL AGENCY		Federal Identifier	
5. APPLICANT INFORMATION			
Legal Name:		Organizational Unit:	
Address (give city, county, state, and zip code):		Name and telephone number of the person to be contacted on matters involving this application (give area code):	
6. EMPLOYER IDENTIFICATION NUMBER (EIN): <div style="border: 1px solid black; width: 100px; height: 20px; margin: 5px 0;"></div>		7. TYPE OF APPLICANT: (enter appropriate letter in box) <input type="checkbox"/>	
8. TYPE OF APPLICATION: <input type="checkbox"/> New <input type="checkbox"/> Continuation <input type="checkbox"/> Revision If Revision, enter appropriate letter(s) in box(es): <input type="checkbox"/> <input type="checkbox"/> A. Increase Award B. Decrease Award C. Increase Duration D. Decrease Duration Other (specify): _____		A. State B. County C. Municipal D. Township E. Interstate F. Intermunicipal G. Special District H. Independent School Dist. I. State Controlled Institution of Higher Learning J. Private University K. Indian Tribe L. Individual M. Profit Organization N. Other (Specify) _____	
10. CATALOG OF FEDERAL DOMESTIC ASSISTANCE NUMBER: <div style="border: 1px solid black; width: 100px; height: 20px; margin: 5px 0;"></div>		9. NAME OF FEDERAL AGENCY:	
11. DESCRIPTIVE TITLE OF APPLICANT'S PROJECT:		12. AREAS AFFECTED BY PROJECT (cities, counties, states, etc.):	
13. PROPOSED PROJECT: Start Date: _____ Ending Date: _____		14. CONGRESSIONAL DISTRICTS OF: a. Applicant _____ b. Project _____	
15. ESTIMATED FUNDING:		16. IS APPLICATION SUBJECT TO REVIEW BY STATE EXECUTIVE ORDER 12372 PROCESS?	
a. Federal	\$.00	a. YES THIS PREAPPLICATION/APPLICATION WAS MADE AVAILABLE TO THE STATE EXECUTIVE ORDER 12372 PROCESS FOR REVIEW ON DATE _____	
b. Applicant	\$.00	b. NO <input type="checkbox"/> PROGRAM IS NOT COVERED BY E.O. 12372	
c. State	\$.00	<input type="checkbox"/> OR PROGRAM HAS NOT BEEN SELECTED BY STATE FOR REVIEW	
d. Local	\$.00		
e. Other	\$.00		
f. Program Income	\$.00	17. IS THE APPLICANT DELINQUENT ON ANY FEDERAL DEBT? <input type="checkbox"/> Yes If "Yes," attach an explanation <input type="checkbox"/> No	
g. TOTAL	\$.00		
18. TO THE BEST OF MY KNOWLEDGE AND BELIEF, ALL DATA IN THIS APPLICATION/PREAPPLICATION ARE TRUE AND CORRECT, THE DOCUMENT HAS BEEN DULY AUTHORIZED BY THE GOVERNING BODY OF THE APPLICANT AND THE APPLICANT WILL COMPLY WITH THE ATTACHED ASSURANCES IF THE ASSISTANCE IS AWARDED			
a. Typed Name of Authorized Representative		b. Title	c. Telephone number
d. Signature of Authorized Representative		e. Date Signed	

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Standard Form 424 (REV 4-88)
Prescribed by OMB Circular A-102

INSTRUCTIONS FOR THE SF 424

This is a standard form used by applicants as a required facesheet for preapplications and applications submitted for Federal assistance. It will be used by Federal agencies to obtain applicant certification that States which have established a review and comment procedure in response to Executive Order 12372 and have selected the program to be included in their process, have been given an opportunity to review the applicant's submission.

- | Item: | Entry: | Item: | Entry: |
|-------|--|-------|--|
| 1. | Self-explanatory. | 12. | List only the largest political entities affected (e.g., State, counties, cities) |
| 2. | Date application submitted to Federal agency (or State if applicable) & applicant's control number (if applicable). | 13. | Self-explanatory. |
| 3. | State use only (if applicable). | 14. | List the applicant's Congressional District and any District(s) affected by the program or project. |
| 4. | If this application is to continue or revise an existing award, enter present Federal identifier number. If for a new project, leave blank. | 15. | Amount requested or to be contributed during the first funding/budget period by each contributor. Value of in-kind contributions should be included on appropriate lines as applicable. If the action will result in a dollar change to an existing award, indicate <u>only</u> the amount of the change. For decreases, enclose the amounts in parentheses. If both basic and supplemental amounts are included, show breakdown on an attached sheet. For multiple program funding, use totals and show breakdown using same categories as item 15. |
| 5. | Legal name of applicant, name of primary organizational unit which will undertake the assistance activity, complete address of the applicant, and name and telephone number of the person to contact on matters related to this application. | 16. | Applicants should contact the State Single Point of Contact (SPOC) for Federal Executive Order 12372 to determine whether the application is subject to the State intergovernmental review process. |
| 6. | Enter Employer Identification Number (EIN) as assigned by the Internal Revenue Service. | 17. | This question applies to the applicant organization, not the person who signs as the authorized representative. Categories of debt include delinquent audit disallowances, loans and taxes. |
| 7. | Enter the appropriate letter in the space provided. | 18. | To be signed by the authorized representative of the applicant. A copy of the governing body's authorization for you to sign this application as official representative must be on file in the applicant's office. (Certain Federal agencies may require that this authorization be submitted as part of the application.) |
| 8. | Check appropriate box and enter appropriate letter(s) in the space(s) provided:
— "New" means a new assistance award.
— "Continuation" means an extension for an additional funding/budget period for a project with a projected completion date.
— "Revision" means any change in the Federal Government's financial obligation or contingent liability from an existing obligation. | | |
| 9. | Name of Federal agency from which assistance is being requested with this application. | | |
| 10. | Use the Catalog of Federal Domestic Assistance number and title of the program under which assistance is requested. | | |
| 11. | Enter a brief descriptive title of the project. If more than one program is involved, you should append an explanation on a separate sheet. If appropriate (e.g., construction or real property projects), attach a map showing project location. For preapplications, use a separate sheet to provide a summary description of this project. | | |

ATTACHMENT C—SF 424A, BUDGET INFORMATION—NON-CONSTRUCTION PROGRAMS AND INSTRUCTIONS FOR THE SF-424A

OMB Approval No. 0348-0044

BUDGET INFORMATION — Non-Construction Programs

SECTION A — BUDGET SUMMARY						
Grant Program Function or Activity (a)	Catalog of Federal Domestic Assistance Number (b)	Estimated Unobligated Funds		New or Revised Budget		
		Federal (c)	Non-Federal (d)	Federal (e)	Non-Federal (f)	Total (g)
1.		\$	\$	\$	\$	\$
2.						
3.						
4.						
5. TOTALS		\$	\$	\$	\$	\$
SECTION B — BUDGET CATEGORIES						
Object Class Categories	GRANT PROGRAM, FUNCTION OR ACTIVITY					
	(1)	(2)	(3)	(4)	Total (5)	
a. Personnel	\$	\$	\$	\$	\$	
b. Fringe Benefits						
c. Travel						
d. Equipment						
e. Supplies						
f. Contractual						
g. Construction						
h. Other						
i. Total Direct Charges (sum of 6a - 6h)						
j. Indirect Charges						
k. TOTALS (sum of 6i and 6j)	\$	\$	\$	\$	\$	
7. Program Income	\$	\$	\$	\$	\$	

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Standard Form 424A (4-88)
Prescribed by OMB Circular A-102

SECTION C - NON-FEDERAL RESOURCES

(a) Grant Program	(b) Applicant	(c) State	(d) Other Sources	(e) TOTALS
8.	\$	\$	\$	\$
9.				
10.				
11.				
12. TOTALS (sum of lines 8 and 11)	\$	\$	\$	\$

SECTION D - FORECASTED CASH NEEDS

	Total for 1st Year	1st Quarter	2nd Quarter	3rd Quarter	4th Quarter
13. Federal	\$	\$	\$	\$	\$
14. NonFederal					
15. TOTAL (sum of lines 13 and 14)	\$	\$	\$	\$	\$

SECTION E - BUDGET ESTIMATES OF FEDERAL FUNDS NEEDED FOR BALANCE OF THE PROJECT

(a) Grant Program	FUTURE FUNDING PERIODS (Years)			
	(b) First	(c) Second	(d) Third	(e) Fourth
16.	\$	\$	\$	\$
17.				
18.				
19.				
20. TOTALS (sum of lines 16-19)	\$	\$	\$	\$

SECTION F - OTHER BUDGET INFORMATION

(Attach additional Sheets if Necessary)

21. Direct Charges:	22. Indirect Charges:
23. Remarks	

INSTRUCTIONS FOR THE SF-424A

General Instructions

This form is designed so that application can be made for funds from one or more grant programs. In preparing the budget, adhere to any existing Federal grantor agency guidelines which prescribe how and whether budgeted amounts should be separately shown for different functions or activities within the program. For some programs, grantor agencies may require budgets to be separately shown by function or activity. For other programs, grantor agencies may require a breakdown by function or activity. Sections A, B, C, and D should include budget estimates for the whole project except when applying for assistance which requires Federal authorization in annual or other funding period increments. In the latter case, Sections A, B, C, and D should provide the budget for the first budget period (usually a year) and Section E should present the need for Federal assistance in the subsequent budget periods. All applications should contain a breakdown by the object class categories shown in Lines a-k of Section B.

Section A. Budget Summary**Lines 1-4, Columns (a) and (b)**

For applications pertaining to a *single* Federal grant program (Federal Domestic Assistance Catalog number) and *not requiring* a functional or activity breakdown, enter on Line 1 under Column (a) the catalog program title and the catalog number in Column (b).

For applications pertaining to a *single* program *requiring* budget amounts by multiple functions or activities, enter the name of each activity or function on each line in Column (a), and enter the catalog number in Column (b). For applications pertaining to multiple programs where none of the programs require a breakdown by function or activity, enter the catalog program title on each line in Column (a) and the respective catalog number on each line in Column (b).

For applications pertaining to *multiple* programs where one or more programs *require* a breakdown by function or activity, prepare a separate sheet for each program requiring the breakdown. Additional sheets should be used when one form does not provide adequate space for all breakdown of data required. However, when more than one sheet is used, the first page should provide the summary totals by programs.

Lines 1-4, Columns (c) through (g.)

For *new applications*, leave Columns (c) and (d) blank. For each line entry in Columns (a) and (b), enter in Columns (e), (f), and (g) the appropriate amounts of funds needed to support the project for the first funding period (usually a year)

Lines 1-4, Columns (c) through (g.) (continued)

For *continuing grant program applications*, submit these forms before the end of each funding period as required by the grantor agency. Enter in Columns (c) and (d) the estimated amounts of funds which will remain unobligated at the end of the grant funding period only if the Federal grantor agency instructions provide for this. Otherwise, leave these columns blank. Enter in columns (e) and (f) the amounts of funds needed for the upcoming period. The amount(s) in Column (g) should be the sum of amounts in Columns (e) and (f).

For *supplemental grants and changes* to existing grants, do not use Columns (c) and (d). Enter in Column (e) the amount of the increase or decrease of Federal funds and enter in Column (f) the amount of the increase or decrease of non-Federal funds. In Column (g) enter the new total budgeted amount (Federal and non-Federal) which includes the total previous authorized budgeted amounts plus or minus, as appropriate, the amounts shown in Columns (e) and (f). The amount(s) in Column (g) should not equal the sum of amounts in Columns (e) and (f).

Line 5 — Show the totals for all columns used.

Section B Budget Categories

In the column headings (1) through (4), enter the titles of the same programs, functions, and activities shown on Lines 1-4, Column (a), Section A. When additional sheets are prepared for Section A, provide similar column headings on each sheet. For each program, function or activity, fill in the total requirements for funds (both Federal and non-Federal) by object class categories.

Lines 6a-i — Show the totals of Lines 6a to 6h in each column.

Line 6j — Show the amount of indirect cost.

Line 6k — Enter the total of amounts on Lines 6i and 6j. For all applications for new grants and continuation grants the total amount in column (5), Line 6k, should be the same as the total amount shown in Section A, Column (g), Line 5. For supplemental grants and changes to grants, the total amount of the increase or decrease as shown in Columns (1)-(4), Line 6k should be the same as the sum of the amounts in Section A, Columns (e) and (f) on Line 5.

INSTRUCTIONS FOR THE SF-424A (continued)

Line 7 - Enter the estimated amount of income, if any, expected to be generated from this project. Do not add or subtract this amount from the total project amount. Show under the program narrative statement the nature and source of income. The estimated amount of program income may be considered by the federal grantor agency in determining the total amount of the grant.

Section C. Non-Federal Resources

Lines 8-11 - Enter amounts of non-Federal resources that will be used on the grant. If in-kind contributions are included, provide a brief explanation on a separate sheet.

Column (a) - Enter the program titles identical to Column (a), Section A. A breakdown by function or activity is not necessary.

Column (b) - Enter the contribution to be made by the applicant.

Column (c) - Enter the amount of the State's cash and in-kind contribution if the applicant is not a State or State agency. Applicants which are a State or State agencies should leave this column blank.

Column (d) - Enter the amount of cash and in-kind contributions to be made from all other sources.

Column (e) - Enter totals of Columns (b), (c), and (d).

Line 12 - Enter the total for each of Columns (b)-(e). The amount in Column (e) should be equal to the amount on Line 5, Column (f), Section A.

Section D. Forecasted Cash Needs

Line 13 - Enter the amount of cash needed by quarter from the grantor agency during the first year.

Line 14 - Enter the amount of cash from all other sources needed by quarter during the first year.

Line 15 - Enter the totals of amounts on Lines 13 and 14.

Section E. Budget Estimates of Federal Funds Needed for Balance of the Project

Lines 16 - 19 - Enter in Column (a) the same grant program titles shown in Column (a), Section A. A breakdown by function or activity is not necessary. For new applications and continuation grant applications, enter in the proper columns amounts of Federal funds which will be needed to complete the program or project over the succeeding funding periods (usually in years). This section need not be completed for revisions (amendments, changes, or supplements) to funds for the current year of existing grants.

If more than four lines are needed to list the program titles, submit additional schedules as necessary.

Line 20 - Enter the total for each of the Columns (b)-(e). When additional schedules are prepared for this Section, annotate accordingly and show the overall totals on this line.

Section F. Other Budget Information

Line 21 - Use this space to explain amounts for individual direct object-class cost categories that may appear to be out of the ordinary or to explain the details as required by the Federal grantor agency.

Line 22 - Enter the type of indirect rate (provisional, predetermined, final or fixed) that will be in effect during the funding period, the estimated amount of the base to which the rate is applied, and the total indirect expense.

Line 23 - Provide any other explanations or comments deemed necessary.

ATTACHMENT D—SF 424B, ASSURANCES—NON-CONSTRUCTION PROGRAMS

OMB Approval No. 0348-0040

ASSURANCES — NON-CONSTRUCTION PROGRAMS

Note: Certain of these assurances may not be applicable to your project or program. If you have questions, please contact the awarding agency. Further, certain Federal awarding agencies may require applicants to certify to additional assurances. If such is the case, you will be notified.

As the duly authorized representative of the applicant I certify that the applicant:

1. Has the legal authority to apply for Federal assistance, and the institutional, managerial and financial capability (including funds sufficient to pay the non-Federal share of project costs) to ensure proper planning, management and completion of the project described in this application.
2. Will give the awarding agency, the Comptroller General of the United States, and if appropriate, the State, through any authorized representative, access to and the right to examine all records, books, papers, or documents related to the award; and will establish a proper accounting system in accordance with generally accepted accounting standards or agency directives.
3. Will establish safeguards to prohibit employees from using their positions for a purpose that constitutes or presents the appearance of personal or organizational conflict of interest, or personal gain.
4. Will initiate and complete the work within the applicable time frame after receipt of approval of the awarding agency.
5. Will comply with the Intergovernmental Personnel Act of 1970 (42 U.S.C. §§ 4728-4763) relating to prescribed standards for merit systems for programs funded under one of the nineteen statutes or regulations specified in Appendix A of OPM's Standards for a Merit System of Personnel Administration (5 C.F.R. 900, Subpart F).
6. Will comply with all Federal statutes relating to nondiscrimination. These include but are not limited to: (a) Title VI of the Civil Rights Act of 1964 (P.L. 88-352) which prohibits discrimination on the basis of race, color or national origin; (b) Title IX of the Education Amendments of 1972, as amended (20 U.S.C. §§ 1681-1683, and 1685-1686), which prohibits discrimination on the basis of sex; (c) Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. § 794), which prohibits discrimination on the basis of handicaps; (d) the Age Discrimination Act of 1975, as amended (42 U.S.C. §§ 6101-6107), which prohibits discrimination on the basis of age; (e) the Drug Abuse Office and Treatment Act of 1972 (P.L. 92-255), as amended, relating to nondiscrimination on the basis of drug abuse; (f) the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970 (P.L. 91-616), as amended, relating to nondiscrimination on the basis of alcohol abuse or alcoholism; (g) §§ 523 and 527 of the Public Health Service Act of 1912 (42 U.S.C. 290 dd-3 and 290 ee-3), as amended, relating to confidentiality of alcohol and drug abuse patient records; (h) Title VIII of the Civil Rights Act of 1968 (42 U.S.C. § 3601 et seq.), as amended, relating to nondiscrimination in the sale, rental or financing of housing; (i) any other nondiscrimination provisions in the specific statute(s) under which application for Federal assistance is being made; and (j) the requirements of any other nondiscrimination statute(s) which may apply to the application.
7. Will comply, or has already complied, with the requirements of Titles II and III of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (P.L. 91-646) which provide for fair and equitable treatment of persons displaced or whose property is acquired as a result of Federal or federally assisted programs. These requirements apply to all interests in real property acquired for project purposes regardless of Federal participation in purchases.
8. Will comply with the provisions of the Hatch Act (5 U.S.C. §§ 1501-1508 and 7324-7328) which limit the political activities of employees whose principal employment activities are funded in whole or in part with Federal funds.
9. Will comply, as applicable, with the provisions of the Davis-Bacon Act (40 U.S.C. §§ 276a to 276a-7), the Copeland Act (40 U.S.C. § 276c and 18 U.S.C. §§ 874), and the Contract Work Hours and Safety Standards Act (40 U.S.C. §§ 327-333), regarding labor standards for federally assisted construction subagreements.

Standard Form 424B (4-88)
Prescribed by OMB Circular A-102

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10. Will comply, if applicable, with flood insurance purchase requirements of Section 102(a) of the Flood Disaster Protection Act of 1973 (P.L. 93-234) which requires recipients in a special flood hazard area to participate in the program and to purchase flood insurance if the total cost of insurable construction and acquisition is \$10,000 or more.
11. Will comply with environmental standards which may be prescribed pursuant to the following: (a) institution of environmental quality control measures under the National Environmental Policy Act of 1969 (P.L. 91-190) and Executive Order (EO) 11514; (b) notification of violating facilities pursuant to EO 11738; (c) protection of wetlands pursuant to EO 11990; (d) evaluation of flood hazards in floodplains in accordance with EO 11988; (e) assurance of project consistency with the approved State management program developed under the Coastal Zone Management Act of 1972 (16 U.S.C. §§ 1451 et seq.); (f) conformity of Federal actions to State (Clear Air) Implementation Plans under Section 176(c) of the Clear Air Act of 1955, as amended (42 U.S.C. § 7401 et seq.); (g) protection of underground sources of drinking water under the Safe Drinking Water Act of 1974, as amended, (P.L. 93-523); and (h) protection of endangered species under the Endangered Species Act of 1973, as amended, (P.L. 93-205).
12. Will comply with the Wild and Scenic Rivers Act of 1968 (16 U.S.C. §§ 1271 et seq.) related to protecting components or potential components of the national wild and scenic rivers system.
13. Will assist the awarding agency in assuring compliance with Section 106 of the National Historic Preservation Act of 1966, as amended (16 U.S.C. 470), EO 11593 (identification and protection of historic properties), and the Archaeological and Historic Preservation Act of 1974 (16 U.S.C. 469a-1 et seq.).
14. Will comply with P.L. 93-348 regarding the protection of human subjects involved in research, development, and related activities supported by this award of assistance.
15. Will comply with the Laboratory Animal Welfare Act of 1966 (P.L. 89-544, as amended, 7 U.S.C. 2131 et seq.) pertaining to the care, handling, and treatment of warm blooded animals held for research, teaching, or other activities supported by this award of assistance.
16. Will comply with the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. §§ 4801 et seq.) which prohibits the use of lead based paint in construction or rehabilitation of residence structures.
17. Will cause to be performed the required financial and compliance audits in accordance with the Single Audit Act of 1984.
18. Will comply with all applicable requirements of all other Federal laws, executive orders, regulations and policies governing this program.

SIGNATURE OF AUTHORIZED CERTIFYING OFFICIAL	TITLE	
APPLICANT ORGANIZATION	DATE SUBMITTED	

ATTACHMENT E—U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES CERTIFICATE REGARDING DRUG-FREE WORKPLACE REQUIREMENTS—GRANTEES OTHER THAN INDIVIDUALS

U.S. Department of Health and Human Services Certification Regarding Drug-Free Workplace Requirements Grantees Other Than Individuals

By signing and/or submitting this application or grant agreement, the grantee is providing the certification set out below.

This certification is required by regulations implementing the Drug-Free Workplace Act of 1988, 45 CFR Part 76, Subpart F. The regulations, published in the May 25, 1990 Federal Register, require certification by grantees that they will maintain a drug-free workplace. The certification set out below is a material representation of fact upon which reliance will be placed when the Department of Health and Human Services (HHS) determines to award the grant. If it is later determined that the grantee knowingly rendered a false certification, or otherwise violates the requirements of the Drug-Free Workplace Act, HHS, in addition to any other remedies available to the Federal Government, may take action authorized under the Drug-Free Workplace Act. False certification or violation of the certification shall be grounds for suspension of payments, suspension or termination of grants, or governmentwide suspension or debarment.

Workplaces under grants, for grantees other than individuals, need not be identified on the certification. If known, they may be identified in the grant application. If the grantee does not identify the workplace(s) at the time of application, or upon award, if there is no application, the grantee must keep the identity of the workplace(s) on file in its office and make the information available for Federal inspection. Failure to identify all known workplaces constitutes a violation of the grantee's drug-free workplace requirements.

Workplace identifications must include the actual address of buildings (or parts of buildings) or other sites where work under the grant takes place. Categorical descriptions may be used (e.g., all vehicles of a mass transit authority or State highway department while in operation, State employees in each local unemployment office, performers in concert halls or radio studios.)

If the workplace identified to HHS changes during the performance of the grant, the grantee shall inform the agency of the change(s), if it previously identified the workplaces in question (see above).

Definitions of terms in the Nonprocurement Suspension and Debarment common rule and Drug-Free Workplace common rule apply to this certification. Grantees' attention is called, in particular, to the following definitions from these rules:

"Controlled substance" means a controlled substance in Schedules I through V of the Controlled Substances Act (21 USC 812) and as further defined by regulation (21 CFR 1308.11 through 1308.15).

"Conviction" means a finding of guilt (including a plea of nolo contendere) or imposition of sentence, or both, by any judicial body charged with the responsibility to determine violations of the Federal or State criminal drug statutes;

"Criminal drug statute" means a Federal or non-Federal criminal statute involving the manufacture, distribution, dispensing, use, or possession of any controlled substance;

"Employee" means the employee of a grantee directly engaged in the performance of work under a grant, including: (i) All "direct charge" employees; (ii) all "indirect charge" employees unless their impact or involvement is insignificant to the performance of the grant; and, (iii) temporary personnel and consultants who are directly engaged in the performance of work under the grant and who are on the grantee's payroll. This definition does not include workers not on the payroll of the grantee (e.g., volunteers, even if used to meet a matching requirement; consultants or independent contractors not on the grantee's payroll; or employees of subrecipients or subcontractors in covered workplaces).

The grantee certifies that it will or will continue to provide a drug-free workplace by:

(a) Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession or use of a controlled substance is prohibited in the grantee's workplace and specifying the actions that will be taken against employees for violation of such prohibition;

(b) Establishing an ongoing drug-free awareness program to inform employees about:

(1) The dangers of drug abuse in the workplace; (2) The grantee's policy of maintaining a drug-free workplace; (3) Any available drug counseling, rehabilitation, and employee assistance programs; and, (4) The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace;

(c) Making it a requirement that each employee to be engaged in the performance of the grant be given a copy of the statement required by paragraph (a);

(d) Notifying the employee in the statement required by paragraph (a) that, as a condition of employment under the grant, the employee will:

(1) Abide by the terms of the statement; and, (2) Notify the employer in writing of his or her conviction for a violation of a criminal drug statute occurring in the workplace no later than five calendar days after such conviction;

(e) Notifying the agency in writing, within ten calendar days after receiving notice under subparagraph (d)(2) from an employee or otherwise receiving actual notice of such conviction. Employers of convicted employees must provide notice, including position title, to every grant officer or other designee on whose grant activity the convicted employee was working, unless the Federal agency has designated a central point for the receipt of such notices. Notice shall include the identification number(s) of each affected grant;

(Continued on reverse side of this sheet)

HHS—Certification Regarding Drug-Free Workplace Requirements—continued from reverse page

(f) Taking one of the following actions, within 30 calendar days of receiving notice under subparagraph (d)(2), with respect to any employee who is so convicted:

(1) Taking appropriate personnel action against such an employee, up to and including termination, consistent with the requirements of the Rehabilitation Act of 1973, as amended; or, (2) Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State, or local health, law enforcement, or other appropriate agency;

(g) Making a good faith effort to continue to maintain a drug-free workplace through implementation of paragraphs (a), (b), (c), (d), (e) and (f).

The grantee may insert in the space provided below the site(s) for the performance of work done in connection with the specific grant (use attachments, if needed):

Place of Performance (Street address, City, County, State, ZIP Code) _____

Check ☐ if there are workplaces on file that are not identified here.

Sections 76.630(c) and (d)(2) and 76.635(a)(1) and (b) provide that a Federal agency may designate a central receipt point for STATE-WIDE AND STATE AGENCY-WIDE certifications, and for notification of criminal drug convictions. For the Department of Health and Human Services, the central receipt point is: Division of Grants Management and Oversight, Office of Management and Acquisition, Department of Health and Human Services, Room 517-D, 200 Independence Avenue, S.W., Washington, D.C. 20201.

Signature _____

Date _____

Title _____

Organization _____

DGMO Form#2 Revised May 1990

Attachment F—Certification Regarding Debarment, Suspension, and Other Responsibility Matters—Primary Covered Transactions

By signing and submitting this proposal, the applicant, defined as the primary participant in accordance with 45 CFR Part 76, certifies to the best of its knowledge and belief that its principals involved:

(a) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency;

(b) Have not within a 3-year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State, or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;

(c) Are not presently indicted or otherwise criminally or civilly charged by a government entity (Federal, State or local) with commission of any of the offenses enumerated in paragraph (1) (b) of this certification; and

(d) Have not within a 3-year period preceding this application/proposal had one or more public transactions (Federal, State, or local) terminated for cause or default.

The inability of a person to provide the certification required above will not necessarily result in denial of participation for this covered transaction. If necessary, the prospective participant shall submit an explanation of why it cannot provide the certification. The certification or explanation will be considered in connection with the Department of Health and Human Services' (HHS) determination whether to enter into this transaction. However, failure of the prospective primary participant to furnish a certification or an explanation shall disqualify such person from participation in this transaction. The prospective primary participant agrees that by submitting this proposal, it will include the clause entitled "Certification Regarding Debarment, Suspension, Ineligibility, and Voluntary Exclusion—Lower Tier Covered Transactions" provided below, without modification in all lower tier covered transactions and in all solicitations for lower tier covered actions.

Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusions—Lower Tier Covered Transactions (To Be Supplied to Lower Tier Participants)

By signing and submitting this lower tier proposal, the prospective lower tier participant, as defined in 45 CFR part 76, certifies to the best of its knowledge and belief that it and its principals:

(a) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.

(b) Where the prospective lower tier participant is unable to certify to any of the above, such prospective participant shall attach an explanation to this proposal.

The prospective lower tier participant further agrees by submitting this proposal that it will include this clause entitled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusions—Lower Tier Covered Transactions" without modification in all lower tier covered transactions and in all solicitations for lower tier covered transactions.

Attachment G—State Single Points of Contact

Alabama

Mrs. Moncell Thornell, State Single Point of Contact, Alabama Department of Economic & Community Affairs, 3465 Norman Bridge Road, Post Office Box 250347, Montgomery, Alabama 36125-0347, Telephone (205) 284-8905.

Arizona

Ms. Janice Dunn, Arizona State Clearinghouse, 3800 N. Central Avenue, Fourteenth Floor, Phoenix, Arizona 85012, Telephone (602) 280-1315.

Arkansas

Mr. Joseph Gillespie, Manager, State Clearinghouse, Office of Intergovernmental Service, Department of Finance and Administration, P.O. Box 3278, Little Rock, Arkansas 72203, Telephone (501) 371-1074.

California

Glenn Stober, Grants Coordinator, Office of Planning and Research, 1400 Tenth Street, Sacramento, California 95814, Telephone (916) 323-7480.

Colorado

State Single Point of Contact, State Clearinghouse, Division of Local Government, 1313 Sherman Street, Room 520, Denver, Colorado 80203, Telephone (303) 866-2156.

Connecticut

Under Secretary, Attn: Intergovernmental Review coordinator, Comprehensive Planning Division, Office of Policy and

Management, 80 Washington Street, Hartford, Connecticut 06106-4459, Telephone (203) 566-3410.

Delaware

Francine Booth, State Single Point of Contact, Executive Department, Thomas Collins Building, Dover, Delaware 19903, Telephone (302) 736-3326.

District of Columbia

Lovetta Davis, State Single Point of Contact, Executive Office of the Mayor, Office of Intergovernmental Relations, Room 416, District Building, 1350 Pennsylvania Avenue, NW., Washington, DC 20004, Telephone (202) 727-9111.

Florida

Karen McFarland, Director, Florida State Clearinghouse, Executive Office of the Governor, Office of Planning and Budgeting The Capitol, Tallahassee, Florida 32399-0001, Telephone (904) 488-8114.

Georgia

Charles H. Badger, Administrator, Georgia State Clearinghouse, 270 Washington Street, S.W., Atlanta, Georgia 30334, Telephone (404) 656-3855.

Hawaii

Mr. Harold S. Masumoto, Acting Director, Office of State Planning, Department of Planning and Economic Development, Office of the Governor, State Capitol, Honolulu, Hawaii 96813, Telephone (808) 548-3016 or 548-3085.

Illinois

Tom Berkshire, State Single Point of Contact, Office of the Governor, State of Illinois, Springfield, Illinois 62706, Telephone (217) 782-8639.

Indiana

Frank Sullivan, Budget Director, State Budget Agency, 212 State House, Indianapolis, Indiana 46204, Telephone (317) 232-5610.

Iowa

Steven R. McCann, Division for Community Progress, Iowa Department of Economic Development, 200 East Grand Avenue, Des Moines, Iowa 50309, Telephone (515) 281-3725.

Kentucky

Robert Leonard, State Single Point of Contact, Kentucky State Clearinghouse, 2nd Floor Capital Plaza Tower, Frankfort, Kentucky 40601, Telephone (502) 564-2382.

Maine

State Single Point of Contact, Attn: Joyce Benson, State Planning Office, State House Station #38, Augusta, Maine 04333, Telephone (207) 289-3261.

Maryland

Mary Abrams, Chief, Maryland State Clearinghouse, Department of State Planning, 301 West Preston Street, Baltimore, Maryland 21201-2365, Telephone (301) 225-4490.

Massachusetts

State Single Point of Contact, Attn: Beverly Boyle, Executive Office of Communities & Development, 100 Cambridge Street, Room 1803, Boston, Massachusetts 02202, Telephone (617) 727-7001.

Michigan

Milton O. Waters, Director of Operations, Michigan Neighborhood Builders Alliance, Michigan Department of Commerce, Telephone (517) 373-7111.

Please direct correspondence to: Manager, Federal Project Review, Michigan Department of Commerce, Michigan Neighborhood Builders Alliance, P.O. Box 30242, Lansing, Michigan 48909, Telephone (517) 373-6223.

Mississippi

Cathy Mallette, Clearinghouse Officer, Department of Finance and Administration, Office of Policy Development, 421 West Pascagoula Street, Jackson, Mississippi 39203, Telephone (601) 960-4280.

Missouri

Lois Pohl, Federal Assistance Clearinghouse, Office of Administration, Division of General Services, P.O. Box 809, Room 430, Truman Building, Jefferson City, Missouri 65102, Telephone (314) 751-4834.

Montana

Deborah Stanton, State Single Point of Contact, Intergovernmental Review Clearinghouse, c/o Office of Budget and Program Planning, Capitol Station, Room 202—State Capitol, Helena, Montana 59620, Telephone (406) 444-5522.

Nevada

Department of Administration, State Clearinghouse, Capitol Complex, Carson City, NV, 89710, Attn: John B. Walker, Clearinghouse Coordinator.

New Hampshire

Jeffery H. Taylor, Director, New Hampshire Office of State Planning, Attn: Intergovernmental Review Process/James E. Bieber, 2½ Beacon Street, Concord, New Hampshire 03301, Telephone (603) 271-2155.

New Jersey

Barry Skokowski, Director, Division of Local Government Services, Department of Community Affairs, CN 803, Trenton, New Jersey 08625-0803, Telephone (609) 292-6613.

Please direct correspondence and questions to: Nelson S. Silver, State Review Process, Division of Local Government Services, CN 803, Trenton, New Jersey 08625-0803, Telephone (609) 292-9025.

New Mexico

Dorothy E. (Duffy) Rodriguez, Deputy Director, State Budget Division, Department of Finance & Administration, Room 190, Bataan Memorial Building, Santa Fe, New Mexico 87503, Telephone (505) 827-3640.

New York

New York State Clearinghouse, Division of the Budget, State Capitol, Albany, New York 12224, Telephone (518) 474-1605.

North Carolina

Mrs. Chrys Baggett, Director, Intergovernmental Relations, N.C. Department of Administration, 116 W. Jones Street, Raleigh, North Carolina 27611, Telephone (919) 733-0499.

North Dakota

William Robinson, State Single Point of Contact, Office of Intergovernmental Affairs, Office of Management and Budget, 14th Floor, State Capitol, Bismarck, North Dakota 58505, Telephone (701) 224-2094.

Ohio

Larry Weaver, State Single Point of Contact, State/Federal Funds Coordinator, State Clearinghouse, Office of Budget and Management, 30 East Board Street, 34th Floor, Columbus, Ohio 43266-0411, Telephone (614) 466-0698.

Oklahoma

Don Strain, State Single Point of Contact, Oklahoma Department of Commerce, Office of Federal Assistance Management, 6601 Broadway Extension, Oklahoma City, Oklahoma 73118, Telephone (405) 843-9770.

Oregon

Attn: Delores Streeter, State Single Point of Contact, Intergovernmental Relations Division, State Clearinghouse, 155 Cottage Street, NE., Salem, Oregon 97310, Telephone (503) 373-1998.

Pennsylvania

Sandra Kline, Project Coordinator, Pennsylvania Intergovernmental Council, P.O. Box 11880, Harrisburg, Pennsylvania 17108 Telephone (717) 783-3700.

Rhode Island

Daniel W. Varin, Associate Director, Statewide Planning Program, Department of Administration, Division of Planning, 265 Melrose Street, Providence, Rhode Island 02907, Telephone (401) 277-2656.

Please direct correspondence and questions to: Review Coordinator, Office of Strategic Planning.

South Carolina

Danny L. Cromer, State Single Point of Contact, Grant Services, Office of the Governor, 1205 Pendleton Street, Room 477, Columbia, South Carolina 29201, Telephone (803) 734-0493.

South Dakota

Susan Comer, State Clearinghouse Coordinator, Office of the Governor, 500 East Capitol, Pierre, South Dakota 57501, Telephone (605) 773-3212.

Tennessee

Charles Brown, State Single Point of Contact, State Planning Office, 500 Charlotte Avenue, 309 John Xavier Building, Nashville, Tennessee 37219, Telephone (615) 741-1676.

Texas

Tom Adams, Governor's Office of Budget and Planning, P.O. Box 12428, Austin, Texas 78711, Telephone (512) 463-1778.

Utah

Utah State Clearinghouse, Attn: Carolyn Wright, Office of Planning and Budget, State of Utah, 116 State Capitol Building, Salt Lake City, Utah 84114, Telephone (801) 538-1547.

Vermont

Bernard D. Johnson, Assistant Director, Office of Policy Research & Coordination, Pavilion Office Building, 109 State Street, Montpelier, Vermont 05602, Telephone (802) 828-3326.

Washington

Marilyn Dawson, Washington Intergovernmental Review Process, Department of Community Development, 9th and Columbia Building, Mail Stop GH-51, Olympia, Washington 98504-4151, Telephone (206) 753-4978.

West Virginia

Fred Cutlip, Community Development Division, Governor's Office of Community and Industrial Development, Building #6, Room 553, Charleston, West Virginia 25305, Telephone (304) 348-4010.

Wisconsin

James R. Klauser, Secretary, Wisconsin Department of Administration, 101 South Webster Street, GEF 2, P.O. Box 7864, Madison, Wisconsin 53707-7864, Telephone (608) 266-1741.

Please direct correspondence and questions to: William C. Carey, Section Chief, Federal-State Relations Office, Wisconsin Department of Administration, (608) 266-0267.

Wyoming

Ann Redman, State Single Point of Contact, Wyoming State Clearinghouse, State Planning Coordinator's Office, Capitol Building, Cheyenne, Wyoming 82002, Telephone (307) 777-7574.

Territories**Guam**

Michael J. Reidy, Director, Bureau of Budget and Management Research, Office of the Governor, P.O. Box 2950, Agaña, Guam 96910, Telephone (671) 472-2285.

Northern Mariana Islands

State Single Point of Contact, Planning and Budget Office, Office of the Governor, Saipan, CM, Northern Mariana Islands 96950.

Puerto Rico

Patria Custodio/Israel Soto Marrero, Chairman/Director, Puerto Rico Planning Board, Minillas Government Center, P.O. Box 41119, San Juan, Puerto Rico 00940-9985, Telephone (809) 727-4444.

Virgin Islands

Jose L. George, Director, Office of
Management and Budget, No. 32 & 33
Kongens Gade, Charlotte Amalie, V.I.
00602, Telephone (809) 774-0750.

ATTACHMENT H—RESTRICTIONS
ON LOBBYINGCertification for Contracts, Grants, Loans,
and Cooperative Agreements

The undersigned certifies, to the best of his
or her knowledge and belief, that:

(1) No Federal appropriated funds have
been paid or will be paid, by or on behalf of
the undersigned, to any person for influencing
or attempting to influence an officer or
employee of any agency, a Member of
Congress in connection with the awarding of
any Federal contract, the making of any
Federal grant, the agreement, and the
extension, continuation, renewal,
amendment, or modification of any Federal
contract, grant, loan, or cooperative
agreement.

(2) If any funds other than Federal
appropriated funds have been paid or will be

paid to any person for influencing or
attempting to influence an officer or employee
of any agency, a Member of Congress in
connection with this Federal contract, grant,
loan, or cooperative agreement, the
undersigned shall complete and submit
Standard Form-LLL, "Disclosure Form to
Report Lobbying," in accordance with its
instructions.

(3) The undersigned shall require that the
language of this certification be included in
the award documents for subawards at all
tiers (including subcontracts, subgrants and
contracts under grants, loans, and
cooperative agreements) and that all
subrecipients shall certify and disclose
accordingly.

This certification is a material
representation of fact upon which reliance
was placed when this transaction was made
or entered into. Submission of this
certification is a prerequisite for making or
entering into this transaction imposed by
section 1352, title 31, U.S. Code. Any person
who fails to file the required certification
shall be subject to a civil penalty of not less

than \$10,000 and not more than \$100,00 for
each such failure.

Statement for Loan Guarantees and Loan
Insurance

The undersigned states, to the best of his or
her knowledge and belief, that:

If any funds have been paid or will be paid
to any person for influencing or attempting to
influence an officer or employee of any
agency, a Member of Congress, an officer or
employee of Congress, or an employee of a
Member of Congress in connection with this
commitment providing for the United States
to insure or grantee a loan, the undersigned
shall complete and submit Standard Form-
LLL, "Disclosure Form to Report Lobbying,"
in accordance with its instructions.

Signature

Title

Organization

Date

BILLING CODE 4150-04-M

DISCLOSURE OF LOBBYING ACTIVITIESApproved by OMB
0348-0046Complete this form to disclose lobbying activities pursuant to 31 U.S.C. 1352
(See reverse for public burden disclosure.)

1. Type of Federal Action: <input type="checkbox"/> a. contract <input type="checkbox"/> b. grant <input type="checkbox"/> c. cooperative agreement <input type="checkbox"/> d. loan <input type="checkbox"/> e. loan guarantee <input type="checkbox"/> f. loan insurance		2. Status of Federal Action: <input type="checkbox"/> a. bid/offer/application <input type="checkbox"/> b. initial award <input type="checkbox"/> c. post-award		3. Report Type: <input type="checkbox"/> a. initial filing <input type="checkbox"/> b. material change For Material Change Only: year _____ quarter _____ date of last report _____	
4. Name and Address of Reporting Entity: <input type="checkbox"/> Prime <input type="checkbox"/> Subawardee Tier _____, if known: Congressional District, if known: _____			5. If Reporting Entity in No. 4 is Subawardee, Enter Name and Address of Prime: Congressional District, if known: _____		
6. Federal Department/Agency:			7. Federal Program Name/Description: CFDA Number, if applicable: _____		
8. Federal Action Number, if known:			9. Award Amount, if known: \$ _____		
10. a. Name and Address of Lobbying Entity (if individual, last name, first name, MI):			b. Individuals Performing Services (including address if different from No. 10a) (last name, first name, MI):		
(attach Continuation Sheet(s) SF-LLL-A, if necessary)					
11. Amount of Payment (check all that apply): \$ _____ <input type="checkbox"/> actual <input type="checkbox"/> planned			13. Type of Payment (check all that apply): <input type="checkbox"/> a. retainer <input type="checkbox"/> b. one-time fee <input type="checkbox"/> c. commission <input type="checkbox"/> d. contingent fee <input type="checkbox"/> e. deferred <input type="checkbox"/> f. other; specify: _____		
12. Form of Payment (check all that apply): <input type="checkbox"/> a. cash <input type="checkbox"/> b. in-kind; specify: nature _____ value _____					
14. Brief Description of Services Performed or to be Performed and Date(s) of Service, including officer(s), employee(s), or Member(s) contacted, for Payment Indicated in Item 11: (attach Continuation Sheet(s) SF-LLL-A, if necessary)					
15. Continuation Sheet(s) SF-LLL-A attached: <input type="checkbox"/> Yes <input type="checkbox"/> No					
16. Information requested through this form is authorized by title 31 U.S.C. section 1352. This disclosure of lobbying activities is a material representation of fact upon which reliance was placed by the tier above when this transaction was made or entered into. This disclosure is required pursuant to 31 U.S.C. 1352. This information will be reported to the Congress semi-annually and will be available for public inspection. Any person who fails to file the required disclosure shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.			Signature: _____ Print Name: _____ Title: _____ Telephone No.: _____ Date: _____		
Federal Use Only:			Authorized for Local Reproduction Standard Form - LLL		

INSTRUCTIONS FOR COMPLETION OF SF-LLL, DISCLOSURE OF LOBBYING ACTIVITIES

This disclosure form shall be completed by the reporting entity, whether subawardee or prime Federal recipient, at the initiation or receipt of a covered Federal action, or a material change to a previous filing, pursuant to title 31 U.S.C. section 1352. The filing of a form is required for each payment or agreement to make payment to any lobbying entity for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with a covered Federal action. Use the SF-LLL-A Continuation Sheet for additional information if the space on the form is inadequate. Complete all items that apply for both the initial filing and material change report. Refer to the implementing guidance published by the Office of Management and Budget for additional information.

1. Identify the type of covered Federal action for which lobbying activity is and/or has been secured to influence the outcome of a covered Federal action.
2. Identify the status of the covered Federal action.
3. Identify the appropriate classification of this report. If this is a followup report caused by a material change to the information previously reported, enter the year and quarter in which the change occurred. Enter the date of the last previously submitted report by this reporting entity for this covered Federal action.
4. Enter the full name, address, city, state and zip code of the reporting entity. Include Congressional District, if known. Check the appropriate classification of the reporting entity that designates if it is, or expects to be, a prime or subaward recipient. Identify the tier of the subawardee, e.g., the first subawardee of the prime is the 1st tier. Subawards include but are not limited to subcontracts, subgrants and contract awards under grants.
5. If the organization filing the report in item 4 checks "Subawardee", then enter the full name, address, city, state and zip code of the prime Federal recipient. Include Congressional District, if known.
6. Enter the name of the Federal agency making the award or loan commitment. Include at least one organizational level below agency name, if known. For example, Department of Transportation, United States Coast Guard.
7. Enter the Federal program name or description for the covered Federal action (item 1). If known, enter the full Catalog of Federal Domestic Assistance (CFDA) number for grants, cooperative agreements, loans, and loan commitments.
8. Enter the most appropriate Federal identifying number available for the Federal action identified in item 1 (e.g., Request for Proposal (RFP) number; Invitation for Bid (IFB) number; grant announcement number; the contract, grant, or loan award number; the application/proposal control number assigned by the Federal agency). Include prefixes, e.g., "RFP-DE-90-001."
9. For a covered Federal action where there has been an award or loan commitment by the Federal agency, enter the Federal amount of the award/loan commitment for the prime entity identified in item 4 or 5.
10. (a) Enter the full name, address, city, state and zip code of the lobbying entity engaged by the reporting entity identified in item 4 to influence the covered Federal action.
(b) Enter the full names of the individual(s) performing services, and include full address if different from 10 (a). Enter Last Name, First Name, and Middle Initial (MI).
11. Enter the amount of compensation paid or reasonably expected to be paid by the reporting entity (item 4) to the lobbying entity (item 10). Indicate whether the payment has been made (actual) or will be made (planned). Check all boxes that apply. If this is a material change report, enter the cumulative amount of payment made or planned to be made.
12. Check the appropriate box(es). Check all boxes that apply. If payment is made through an in-kind contribution, specify the nature and value of the in-kind payment.
13. Check the appropriate box(es). Check all boxes that apply. If other, specify nature.
14. Provide a specific and detailed description of the services that the lobbyist has performed, or will be expected to perform, and the date(s) of any services rendered. Include all preparatory and related activity, not just time spent in actual contact with Federal officials. Identify the Federal official(s) or employee(s) contacted or the officer(s), employee(s), or Member(s) of Congress that were contacted.
15. Check whether or not a SF-LLL-A Continuation Sheet(s) is attached.
16. The certifying official shall sign and date the form, print his/her name, title, and telephone number.

Public reporting burden for this collection of information is estimated to average 30 minutes per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Office of Management and Budget, Paperwork Reduction Project (0348-0046), Washington, D.C. 20503.

DISCLOSURE OF LOBBYING ACTIVITIES CONTINUATION SHEET

Approved by OMB
0348-0046

Reporting Entity:

Page _____ of _____

Attachment I—DHHS Regulations Applying to All Applications/Grantees Under the Jobs Opportunities for Low Income Individuals Program

Title 45 of the *Code of Federal Regulations*:

Part 16—Department of Grant Appeals Process

Part 74—Administration of Grants (non-governmental)

Part 74—Administration of Grants (state and local governments and Indian Tribal affiliates):

Sections:

74.62(a) Non-Federal Audits

74.173 Hospitals

74.174(b) Other Nonprofit Organizations

74.304 Final Decisions in Disputes

74.710 Real Property, Equipment and Supplies

74.715 General Program Income

Part 75—Informal Grant Appeal Procedures

Part 76—Debarment and Suspension From Eligibility for Financial Assistance

Subpart F—Drug Free Workplace Requirements

Part 80—Non-Discrimination Under Programs Receiving Federal Assistance Through the Department of Health and Human Services Effectuation of Title VI of the Civil Rights Act of 1964

Part 81—Practice and Procedures for Hearings Under Part 80 of This Title

Part 83—Non-discrimination on the Basis of Sex in the Admission of Individuals to Training Programs

Part 84—Non-discrimination on the Basis of Handicap in Programs

Part 91—Non-discrimination on the Basis of Age in Health and Human Services Programs or Activities Receiving Federal Financial Assistance

Part 92—Uniform Administrative Requirements for Grants and Cooperative Agreements to States and Local Governments (Federal Register, March 11, 1988)

Part 93—New Restrictions on Lobbying

Part 100—Intergovernmental Review of Department of Health and Human Services Programs and Activities

Attachment J—Checklist for Use in Submitting OCS Grant Applications (Optional)

The application should contain:

1. A completed, *signed* SF-424, "Application for Federal Assistance. The letter code for the priority area (JO) should be in the lower right-hand corner of the page.

2. A completed SF-424A, "Budget Information—Non-Construction."

3. A *signed* SF-424B, "Assurances—Non-Construction."

4. A Project Narrative beginning with a Table of Contents that describes the project in the following order:

(a) Eligibility Confirmation

(b) Analysis of Need

(c) Organizational Experience and Staff Responsibilities

(d) Work Program/Business Plan

(e) Third Party Evaluation

(f) Appendices, including proof of non-profit status, Bylaws, Articles of Incorporation, SPOC comments (where applicable), resumes

5. A *signed* copy of "Certification Regarding Anti-Lobbying Activities".

6. A *signed* copy of the Cooperative Partnership Agreement or letter of intent.

7. A completed Disclosure of Lobbying Activities, if applicable.

8. A self-addressed mailing label which can be affixed to a postcard to acknowledge receipt of application.

9. A *signed* copy of eligibility agreement (for certain applicants under Part B, 3.)

The application should not exceed a total of 50 pages. It should include one original and four identical copies, printed on white 8½ by 11 inch paper, two-holed punched at the top center and fastened separately with a compressor slide paper fastener, such as an ACCO clip, or a binder clip. The submission of bound applications, enclosed in binders, is specifically discouraged.

The applicant must be aware that in signing and submitting the application for this award, it is certifying that it will comply with the Federal requirements concerning the drug-free workplace and debarment regulations set forth in Attachments E and F.

[FR Doc. 91-13042 Filed 6-3-91; 8:45 am]

BILLING CODE 4150-04-M

Tuesday
June 4, 1991

Postpaid

Part VII

Department of Health and Human Services

Office of Community Services

Request for Applications Under the Office of Community Services' Fiscal Year 1991 Training and Technical Assistance Program; Notice

DEPARTMENT OF HEALTH AND HUMAN SERVICES

OFFICE OF COMMUNITY SERVICES

[Program Announcement No. OCS 91-3]

Request for Applications Under the Office of Community Services' Fiscal Year 1991 Training and Technical Assistance Program

AGENCY: Office of Community Services, Family Support Administration, HHS.

ACTION: Request for applications under the Office of Community Services' Training and Technical Assistance Program.

SUMMARY: The Office of Community Services (OCS) announces that competing applications will be accepted for new grants pursuant to the Secretary's discretionary authority under section 681(a)(3) of the Community Services Block Grant Act of 1981 (title VI of Public Law 97-35, the Omnibus Budget Reconciliation Act of 1981, 42 U.S.C. 9910(a)(3)). This Program Announcement consists of seven parts. Part A covers information on the legislative authority and defines terms used in the Program Announcement. Part B describes the types of activities that will be considered for funding. Part C provides details on who is eligible to apply and application prerequisites. Part D provides information on application procedures including the availability of forms, where to submit an application, criteria for initial screening of applications, and project evaluation criteria. Part E provides guidance on the content of an application package and the application itself. Part F provides instructions for completing an application. Part G details post-award requirements.

CLOSING DATE: The closing date for submission of applications is August 5, 1991.

FOR FURTHER INFORMATION CONTACT: Mae Brooks, Division of Block Grants, Office of Community Services, Family Support Administration, 370 L'Enfant Promenade, SW., Washington, DC 20447. You may also call (202) 401-9343.

Part A—Preamble

1. Legislative Authority

Section 681(a)(3) of the Community Services Block Grant (CSBG) Act authorizes the Secretary of Health and Human Services to make funds available to States and public and private nonprofit organizations to provide for training and technical assistance to aid States in carrying out

their responsibilities under the CSBG Act.

2. Definitions of Terms

For purposes of this Program Announcement the following definitions apply:

"Training" is an educational activity or event which is designed to impart knowledge, understanding, or increase the development of skills. Such training activities may be in the form of assembled events such as workshops, seminars, or programs of self-instructional activities.

"Technical assistance" is a problem-solving event generally utilizing the services of an expert. Such services may be provided on-site, by telephone, or other communications. These services address specific problems and are intended to assist with the immediate resolution of a given problem or set of problems.

"State" means all of the States and the District of Columbia. Except where specifically noted, for purposes of this Program Announcement it also means "Territory."

"Territory" refers to the Commonwealth of Puerto Rico, the American Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and the Republic of Palau.

"Local service providers" are the approximately 1,000 local public or private nonprofit agencies that receive Community Services Block Grant funds from States to provide services to, or undertake activities on behalf of, low income people.

Part B—Purpose

Section 681(a)(3) of the CSBG Act authorizes the Secretary of the Department of Health and Human Services to make grants, loans or guarantees to States and public agencies and private nonprofit organizations, or to enter into contracts or jointly financed cooperative arrangements with States and public agencies and private nonprofit organizations, to provide for training and technical assistance to aid States in carrying out their responsibilities for conducting and administering the CSBG Program.

OCS is soliciting applications which implement this legislative mandate on a national basis. Proposed projects under this Program Announcement must focus on one of the following program priorities:

(1) *Training and Technical Assistance:* The development of a training and/or technical assistance program to assist staff of local service providers to acquire the skills and

information needed to solve management and programmatic problems. In addition to on-site training, OCS is interested in the development of self-instructional materials in the areas of fiscal, program, case management, or personnel management. The programs must include the provision of T&TA to staff of a significant number of local service providers in the most cost effective manner possible. Collaboration with State CSBG coordinators and local service providers will be required in identifying the training and technical assistance needs of staff of local service providers.

(2) *Data Collection:* The collection, analysis, and dissemination of information on CSBG Programs on a nationwide basis through a process that relies on voluntary State cooperation. The information must be comprehensive enough and disseminated in such a format as to enable States and local service providers to improve their planning, management, and delivery of services.

Submissions which propose the use of grant funds for the development of any printed or visual materials must contain convincing evidence that these materials are not available from other sources. OCS will not provide funding for such items if justification is not sufficient. Any films or visual presentations approved for development under the grant must be submitted to the Office of Community Services for clearance prior to dissemination.

See part F, section 4, for special instructions on developing a work program.

Part C—Application Prerequisites

1. Eligible Applicants

Eligible applicants are States, public agencies and private non-profit organizations with a demonstrated ability to successfully develop and implement programs and activities similar to those enumerated above.

OCS encourages Historically Black Colleges and Universities to submit applications.

2. Available Funds

The amount of funds available for grant awards under the T&TA Program in FY 91 is as follows: \$144,000 for training and technical assistance activities and \$100,000 for data collection activities.

3. Mobilization of Resources

OCS would like to mobilize as many resources as possible to enhance projects funded under this program. Proposals submitted by applicants

whose programs will leverage other matching funds and resources, such as cash or third-party in-kind contributions, will be looked upon favorably and will be eligible to receive additional points in the competitive review process. Applicants that have failed to generate matching funds and resources on prior OCS grants, if identified, will not receive additional points.

4. Grant Duration

OCS will grant funds for 12-month project and budget periods. The application must clearly demonstrate that the project work plan will achieve measurable results and can be successfully completed within one year.

5. Project Beneficiaries

Projects proposed for funding under the training and technical assistance priority area must result in direct benefits to staff of local service providers in carrying out their responsibilities under the Community Services Block Grant Act.

6. Number of Projects in Application

An application may contain only one project and this project must address one of the purposes found in part B. Applications which are not in compliance with these requirements will be ineligible for funding.

7. Sub-Contracting or Delegating Projects

OCS will not fund any project where the role of the eligible applicant is primarily to serve as a conduit for funds to organizations other than the applicant. This prohibition does not bar the making of subgrants or subcontracting for specific services or activities needed to conduct the project.

Part D—Application Procedures

1. Availability of Forms

Attachments A, B and C contain all of the standard forms necessary for the application for awards under these OCS programs. These forms may be photocopied for use in developing the application.

Copies of the **Federal Register** containing this announcement are available at most local libraries and Congressional District Offices for reproduction. If copies are not available at these sources, they may be obtained by writing or telephoning the office listed under the section entitled "**FOR FURTHER INFORMATION**" at the beginning of this announcement.

For purposes of this announcement, all applicants will use SF-424, SF-424A, and SF-424B. Instructions for completing the SF-424, SF-424A, and SF-424B are

found in Attachments A, B, and C and Part F.

Part F contains instructions for the project narrative. The project narrative will be submitted on plain bond paper along with the SF-424 and related forms.

Attachment I provides a checklist to aid applicants in preparing a complete application package for OCS.

2. Application Submission

Refer to the section entitled "Closing Date" at the beginning of this Program Announcement for the last day on which applications may be submitted.

Applications may be mailed to: Family Support Administration, Division of Grants Management, 6th Floor OFM/DGM, 370 L'Enfant Promenade, SW., Washington, DC 20447.

Hand-delivered applications are accepted during normal working hours of 8 a.m. to 4:30 p.m., Monday through Friday, except legal holidays, on or prior to the established closing date at: Family Support Administration, Division of Grants Management, Sixth Floor, 901 D Street, SW., Washington, DC 20447.

An application will be considered to be received on time if sent on or before the closing date as evidenced by a legible U.S. Postal Service postmark or a legibly dated receipt from a commercial carrier. Private metered postmarks will not be considered acceptable as proof of timely mailing. Applications submitted by any means other than through the U.S. Postal Service or commercial carrier shall be considered as acceptable only if physically received at the above address before close of business on or before the deadline date.

Note: Applicants should note that the U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, applicants should check with their local post office.

Late applications will be returned to the senders without consideration in the competition.

Applications once submitted are considered final and no additional materials will be accepted by OCS.

One signed original application and four copies should be submitted.

3. Intergovernmental Review

This program is covered under Executive Order 12372,

"Intergovernmental Review of Federal Programs" and 45 CFR part 100,

"Intergovernmental Review of Department of Health and Human Services Programs and Activities."

Under the Order, States may design their own processes for reviewing and commenting on proposed Federal assistance under covered programs.

All States and Territories except Alaska, Idaho, Kansas, Louisiana, Minnesota, Nebraska, Virginia, American Samoa and Palau have elected to participate in the Executive Order process and have established Single Points of Contact (SPOCs).

Applicants from these nine jurisdictions need take no action regarding Executive Order 12372. Applicants for projects to be administered by Federally-recognized Indian Tribes are also exempt from the requirements of Executive Order 12372. Otherwise, applicants should contact their SPOCs as soon as possible to alert them of the prospective applications and receive any necessary instructions, so that the program office can obtain and review SPOC comments as part of the award process. It is imperative that the applicant submit all required materials, if any, to the SPOC and indicate the date of this submittal (or the date of contact if no submittal is required) on the Standard Form 424A, item 16a.

Under 45 CFR 100.8(a)(2), a SPOC has sixty (60) days from the application deadline to comment on proposed new awards. However, because applications are due 60 days from the date of the announcement and the grants are to be awarded in September, there is not sufficient time to allow for a complete SPOC comment period. Therefore, we have reduced the comment period to 30 days [June 4, 1991.]

SPOCs are encouraged to eliminate the submission of routine endorsements as official recommendations. Additionally, SPOCs are requested to clearly differentiate between mere advisory comments and those official State process recommendations which they intend to trigger the "accommodate or explain" rule under 45 CFR 100.10.

When comments are submitted directly to ACF, they should be addressed to: Department of Health and Human Services, Family Support Administration, Division of Grants Management, 6th Floor, 370 L'Enfant Promenade, SW., Washington, DC 20447. A list of the Single Points of Contact for each State and Territory is included as Appendix G of this announcement.

4. Application Consideration

Applications which meet the screening requirements in sections 5a and 5b below will be reviewed competitively. Such applications will be referred to reviewers for a numerical score and explanatory comments based solely on responsiveness to program guidelines and evaluation criteria published in this announcement.

Applications will be reviewed by persons outside of the OCS unit which would be directly responsible for programmatic management of the grant. The results of these reviews will assist OCS in considering competing applications. Reviewers' scores will weigh heavily in funding decisions but will not be the only factors considered. Applications will be ranked and generally considered in order of the average scores assigned by reviewers. However, highly ranked applications are not guaranteed funding since the other factors deemed relevant may be considered including, but not limited to, the timely and proper completion of projects funded with OCS funds granted in the past 5 years; comments of reviewers and government officials; staff evaluation and input; geographic distribution; previous program performance of applicants; compliance with grant terms under previous DHHS grants; audit reports; investigative reports; and applicant's progress in resolving any final audit disallowances on OCS or other Federal agency grants.

OCS reserves the right to discuss applications with other Federal or non-Federal funding sources to ascertain the applicant's performance record.

5. Criteria for Screening Applications

a. Initial Screening

All applicants will receive an acknowledgement with an assigned identification number. This number, along with any other identifying codes, must be referenced in all subsequent communications concerning the application. If an acknowledgement is not received within three weeks after the deadline date, please notify FSA by telephone at (202) 401-9230. All applications that meet the published deadline for submission will be screened to determine completeness and conformity to the requirements of this announcement. Only those applications meeting the following requirements will be reviewed and evaluated competitively. Others will be returned to the applicants with a notation that they were unacceptable. (1) The application must contain a Standard Form 424 "Application for Federal Assistance" (SF-424), a budget (SF-424A), and signed "Assurances" (SF-424B) completed according to instructions published in part F and attachments A, B, and C of this program announcement.

(2) A project narrative must also accompany the standard forms.

(3) The SF-424 and the SF-424B must be signed by an official of the organization applying for the grant who

has authority to obligate the organization legally.

b. Pre-rating Review

Applications which pass the initial screening will be forwarded to reviewers and/or OCS staff to verify prior to the programmatic review, that the applications comply with this Program Announcement in the following areas:

(1) *Eligibility:* Applicant meets the eligibility requirements found in part C. Applicant also must be aware that the applicant's legal name as required on the SF 424 (Item 5) must match that listed as corresponding to the Employer Identification Number (Item 6).

(2) *Number of Projects:* The application contains only one project for a duration of 12 months.

(3) *Target Populations:* The application clearly targets the specific outcomes and benefits of the project to State recipients of CSBG funds and/or local providers of CSBG services and activities.

(4) *Program Focus:* The application addresses one of the priorities described in part B of this announcement.

An application may be disqualified from the competition and returned to the applicant if it does not conform to one or more of the above requirements.

c. Evaluation Criteria

Applications which pass the pre-rating review will be assessed and scored by reviewers. Each reviewer will give a numerical score for each application reviewed. These numerical scores will be supported by explanatory statements on a formal rating form describing major strengths and major weaknesses under each applicable criterion published in this announcement.

The in-depth evaluation and review process will use the following criteria coupled with the specific requirements contained in part B. (Note: The following review criteria reiterate collection of information requirements contained in part F of this announcement. These requirements are approved under OMB Control Number 0970-0062.)

Criteria for Review and Evaluation of Applications Submitted Under this Program Announcement

(1) *Criterion I: Analysis of needs/priorities* (Maximum: 10 points).

(a) Nature and extent of problem are minimally described and documented. (0-3 points). OR

(b) Nature and extent of problem are adequately described and documented. (4-6 points). OR

(c) Nature and extent of problem are exceptionally well described and documented. (7-10 points).

(2) *Criterion II: Adequacy of Work Program* (Maximum: 35 points).

(a) Goals are appropriately related to needs and are specific and measurable (0-10 points).

(b) Activities are adequately described and appropriately related to goals (0-15 points).

(c) Time frames and chronology of key activities are realistic (0-2 points).

(d) The plan for disseminating the information resulting from the project to CSBG grantees, local service providers, and other interested parties is workable and assures that all relevant parties are included in the dissemination. (0-4 points).

(e) The plan for conducting an assessment that will determine the degree to which the stated goals and objectives of the project are achieved is adequate and workable. (0-4 points).

(3) *Criterion III: Significant and Beneficial Impact* (Maximum 30 points).

(a) Applicant adequately describes how the project will assure long-term program and management improvements for States and/or local providers of CSBG services and activities (0-12 points).

(b) *For T&TA applications:* The project will impact on a significant number of local service providers (0-11 points).

(c) *For data collection applications:* The applicant has the ability to collect data from a significant number of States. (0-11 points).

(d) Project will leverage or mobilize other resources (0-7 points). [NOTE: If applicant failed to mobilize other resources on prior OCS grants, it should receive 0 points for this subcriterion.]

(4) *Criterion IV: Ability of Applicant to Perform* (Maximum: 20 points).

(a) Quality of staff is such that applicant will be able to operate the project effectively and efficiently (0-10 points).

(b) The application demonstrates that the applicant has experience relevant to the activities that it proposes to undertake (0-10 points).

(5) *Criterion V: Adequacy of Budget* (Maximum: 5 points).

(a) The resources requested are reasonable and adequate to accomplish the project (0-3 points).

(b) Total costs are reasonable and consistent with anticipated results (0-2 points).

Part E—Contents of Application and Receipt Process**1. Contents of Application**

Each application, should include one original and four additional copies of the following:

a. A completed Standard Form 424 which has been signed by an official of the organization applying for the grant who has authority to obligate the organization legally. The applicant must be aware that in signing and submitting the application for this award, it is certifying that it will comply with the Federal requirements concerning the drug-free workplace and debarment regulations set forth in attachments D and E.

B. "Budget Information-Non-Construction Programs" (SF-424A).

c. A filled out, signed and dated "Assurances—Non-Construction Programs" (SF-424B), attachment C.

d. Restrictions on Lobbying—Certification for Contracts, Grants, Loans, and Cooperative Agreements: fill out, sign and date form found at attachment F.

e. Disclosure of Lobbying Activities, SF-LLL: fill out, sign and date form found at attachment F, as appropriate.

f. A Project Narrative consisting of the following elements preceded by a consecutively numbered Table of Contents that will describe the project in the following order:

- (i) Analysis of Needs/Priorities.
- (ii) Work Program.
- (iii) Significant and Beneficial Impact.
- (iv) Management History.
- (v) Staffing and Resources.
- (vi) Appendices including By-Laws; Articles of Incorporation; Certification Regarding Lobbying; resumes, etc.

The original must bear the signature of the authorizing official representing the applicant organization. The total number of pages for the entire application package should not exceed 30 pages, including appendices. Pages should be numbered sequentially throughout. If appendices include photocopied materials, they must be legible. Applications should be submitted in ring-binders that will allow for easy separation and reassembly.

Application must be uniform in composition since OCS may find it necessary to duplicate them for review purposes. Therefore, applications must be submitted on white 8½ x 11 inch paper only. They must not include colored, oversized or folded materials. Do not include organizational brochures or other promotional materials, slides, films, clips, etc. in the proposal. They will be discarded if included.

Part F—Instructions for Completing Applications

(Approved by the Office of Management and Budget under Control Number 0970-0062.) The standard forms attached to this announcement shall be used to apply for funds under this announcement.

It is suggested that you reproduce the SF-424 and SF-424A (attachments A and B) and type your application on the copy.

If an item cannot be answered or does not appear to be related or relevant to the assistance requested, write "NA" for "not applicable." Prepare your application in accordance with the standard instructions which coincide with the forms, as well as the OCS specific instructions set forth below.

1. SF-424—"Application for Federal Assistance"

Item #1—For purposes of this announcement, all projects are considered "Applications;" there are no "Pre-applications." Also, all projects are considered non-construction. Check the appropriate box under "Application."

Items #5 and #6—The legal name of the applicant must correspond to the name associated with the Employer Identification Number.

Items #7—If applicant is a "nonprofit organization," enter "N" in the box and specify "nonprofit organization" in the space marked "Other." Proof of nonprofit status must be included with the application.

Item #8—All applications are "New."

Item #9—Enter "DHHS-FSA-OCS"

Item #10—The Catalog of Federal Domestic Assistance Number for projects covered under this Announcement is 93.032.

Item #11—In addition to a brief descriptive title of the project, indicate for which priority area funds are being requested. The following letter designations must be used:

TA—for applications proposing training and technical assistance activities

TD—for applications proposing data collection activities

2. SF-424A—"Budget Information—Non-Construction Programs"

See instructions accompanying this form. In completing these sections, the "Federal Funds" budget entries will relate to the requested OCS funds only, and "Non-Federal" will include leveraged funds from other sources.

3. SF-424B—"Assurances—Non-Construction"

All applicants must fill out, sign, date, and return the "Assurances" found at attachment C with their application.

4. Project Narrative

The narrative section of the application must address one of the priority areas described in part B and follow the format outlined below.

a. Analysis of Needs/Priorities

The application should identify the management and/or programmatic problem areas in which State recipients of CSBG and/or local service providers are seeking assistance.

b. Work Program

The application must contain a detailed and specific work program that is both sound and feasible. Applicants must address how the proposed project will carry out the legislative mandate and the program activities found in part B. This section of the narrative must include:

(1) Project priorities and rationale for selecting them, (2) goals and objectives, and (3) project activities. Quantitative data must be provided. For projects funded under priority one, applicants must describe how they will identify needs, the activities that they propose to carry out to address those needs, the methods by which they will carry out those activities, and the plan for disseminating T&TA products resulting from the project. Project activities must be described in a quantitative manner, i.e. number of training days, number of workshops, number of persons to be trained, number of local services providers to be impacted, materials to be developed, etc. The application must also include a plan for conducting an assessment of its activities as they relate to the goals and objectives.

For data collection projects, applicants should, at a minimum, describe the methodology to be used to identify the kind of data to be collected, how the data will be collected, how the applicant will assure that the appropriate data will be collected, a plan for data analysis, the methods by which the data will be disseminated and the audiences, and a plan for conducting an assessment of the useful data collected.

Also to be included for both types of projects is a discussion on how the applicant will involve other appropriate organizations in the planning or implementation of the project in order to avoid duplication of effort and to leverage additional resources.

c. Significant and Beneficial Impact

Each applicant also must indicate how the project will have a significant and beneficial impact. At a minimum the applicant must provide (1) a description

of how the project will result in long-term program and management improvement in the CSBG program, and (2) a description of the impact area of the project [for T&TA applications] OR a description of the mechanism the applicant will use to collect data, how it can assure collections from a significant number of states, and how many states will be willing to submit data to the applicant [for data collection applications].

d. Management History

Organizations must detail their competence in the specific program area. Documentation must be provided which addresses (1) accomplishments relevant to the proposed project, and (2) experience relevant to the CSBG program. Organizations which propose providing training and technical assistance must detail their competence in the specific program priority area and as a deliverer with expertise in the fields of training and technical assistance. If applicable, information provided by these applicants must also address related achievements and competence of each cooperating or sponsoring organization.

e. Staffing and Resources

The application must fully describe (e.g. a resume) the experience and skills of the proposed project director showing that the individual is not only well qualified but that his/her professional capabilities can assure successful

implementation of the project. Identify the Chief Executive Officer, and the proposed project director.

Part G—Post Award Information and Reporting Requirements

Following approval of the applications selected for funding, notice of project approval and authority to draw down project funds will be made in writing. The official award document is the Notice of Grant Award which provides the amount of Federal funds approved for use in the project, the project and budget periods for which support is provided, the terms and conditions of the award, and (matching participation will not be included on NGA) the total project period for which support is contemplated.

In addition to the General Conditions and Special Conditions (where the latter are warranted) which will be applicable to grants, grantee will be subject to the provisions of 45 CFR parts 74 (non-governmental) and 92 (governmental) and OMB Circular A-133. Grantees will be required to submit quarterly progress and financial reports (SF-269) as well as a final progress and financial report.

Grantees are subject to the audit requirements in 45 CFR parts 74 (non-governmental) and 92 (governmental) and OMB Circular A-133. Section 1352 of Public Law 101-121, signed into law on October 23, 1989, imposes new prohibitions and requirements for disclosure and certification related to lobbying on recipients of Federal

contracts, grants, cooperative agreements, and loans. It provides exemptions for Indian tribes and tribal organizations. Current and prospective recipients (and their subrecipient contractors and/or grantees) are prohibited from using Federal funds, other than profits from a Federal contract, for lobbying Congress or any Federal agency in connection with the award of a contract, grant, cooperative agreement, or loan. In addition, for each award action in excess of \$100,000 (or \$150,000 for loans) the law requires recipients and their subrecipient contractors and/or subgrantees (1) to certify that they have neither used nor will use any appropriated funds for payment to lobbyists, (2) to disclose the name, address, payment details, and purpose of any agreements with lobbyists whom recipients or their subrecipient contractors or subgrantees will pay with profits or nonappropriated funds on or after December 22, 1989, and (3) to file quarterly up-dates about the use of lobbyists if material changes occur in their use. The law establishes civil penalties for noncompliance. See attachment F for certification and disclosure forms to be submitted with the applications for this program. Attachment H indicates the regulations which apply to all applicants/grantees under this program.

Dated: May 24, 1991.

Eunice S. Thomas,

Director, Office of Community Services.

BILLING CODE 4150-04-M

APPLICATION FOR FEDERAL ASSISTANCE

1. TYPE OF SUBMISSION: Application <input type="checkbox"/> Construction <input type="checkbox"/> Non-Construction		Preapplication <input type="checkbox"/> Construction <input type="checkbox"/> Non-Construction		3. DATE RECEIVED BY STATE 		State Application Identifier	
				4. DATE RECEIVED BY FEDERAL AGENCY 		Federal Identifier	
5. APPLICANT INFORMATION							
Legal Name:				Organizational Unit:			
Address (give city, county, state, and zip code):				Name and telephone number of the person to be contacted on matters involving this application (give area code)			
6. EMPLOYER IDENTIFICATION NUMBER (EIN): <div style="border: 1px solid black; width: 100px; height: 20px; margin-bottom: 5px;"></div> <div style="border: 1px solid black; width: 100px; height: 20px; margin-bottom: 5px;"></div>				7. TYPE OF APPLICANT: (enter appropriate letter in box) <input type="checkbox"/>			
8. TYPE OF APPLICATION: <input type="checkbox"/> New <input type="checkbox"/> Continuation <input type="checkbox"/> Revision If Revision, enter appropriate letter(s) in box(es): <input type="checkbox"/> <input type="checkbox"/> A. Increase Award B. Decrease Award C. Increase Duration D. Decrease Duration Other (specify): _____				A. State B. County C. Municipal D. Township E. Interstate F. Intermunicipal G. Special District H. Independent School Dist. I. State Controlled Institution of Higher Learning J. Private University K. Indian Tribe L. Individual M. Profit Organization N. Other (Specify): _____			
10. CATALOG OF FEDERAL DOMESTIC ASSISTANCE NUMBER: <div style="border: 1px solid black; width: 100px; height: 20px; margin-bottom: 5px;"></div> <div style="border: 1px solid black; width: 100px; height: 20px; margin-bottom: 5px;"></div>				9. NAME OF FEDERAL AGENCY:			
11. DESCRIPTIVE TITLE OF APPLICANT'S PROJECT:							
12. AREAS AFFECTED BY PROJECT (cities, counties, states, etc.):							
13. PROPOSED PROJECT: Start Date Ending Date		14. CONGRESSIONAL DISTRICTS OF: a. Applicant b. Project					
15. ESTIMATED FUNDING:		16. IS APPLICATION SUBJECT TO REVIEW BY STATE EXECUTIVE ORDER 12372 PROCESS?					
a. Federal \$.00 b. Applicant \$.00 c. State \$.00 d. Local \$.00 e. Other \$.00 f. Program Income \$.00 g. TOTAL \$.00		a. YES. THIS PREAPPLICATION/APPLICATION WAS MADE AVAILABLE TO THE STATE EXECUTIVE ORDER 12372 PROCESS FOR REVIEW ON _____ DATE _____ b. NO <input type="checkbox"/> PROGRAM IS NOT COVERED BY E.O. 12372 <input type="checkbox"/> OR PROGRAM HAS NOT BEEN SELECTED BY STATE FOR REVIEW					
		17. IS THE APPLICANT DELINQUENT ON ANY FEDERAL DEBT? <input type="checkbox"/> Yes If "Yes," attach an explanation. <input type="checkbox"/> No					
18. TO THE BEST OF MY KNOWLEDGE AND BELIEF, ALL DATA IN THIS APPLICATION/PREAPPLICATION ARE TRUE AND CORRECT, THE DOCUMENT HAS BEEN ONLY AUTHORIZED BY THE GOVERNING BODY OF THE APPLICANT AND THE APPLICANT WILL COMPLY WITH THE ATTACHED ASSURANCES IF THE ASSISTANCE IS AWARDED							
a. Typed Name of Authorized Representative				b. Title		c. Telephone number	
d. Signature of Authorized Representative						e. Date Signed	

Previous Editions Not Usable

Standard Form 424 (REV 4-88)
Prescribed by OMB Circular A-102

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INSTRUCTIONS FOR THE SF 424

This is a standard form used by applicants as a required facesheet for preapplications and applications submitted for Federal assistance. It will be used by Federal agencies to obtain applicant certification that States which have established a review and comment procedure in response to Executive Order 12372 and have selected the program to be included in their process, have been given an opportunity to review the applicant's submission.

- | Item: | Entry: | Item: | Entry: |
|-------|--|-------|--|
| 1. | Self-explanatory. | 12. | List only the largest political entities affected (e.g., State, counties, cities). |
| 2. | Date application submitted to Federal agency (or State if applicable) & applicant's control number (if applicable). | 13. | Self-explanatory. |
| 3. | State use only (if applicable). | 14. | List the applicant's Congressional District and any District(s) affected by the program or project. |
| 4. | If this application is to continue or revise an existing award, enter present Federal identifier number. If for a new project, leave blank. | 15. | Amount requested or to be contributed during the first funding/budget period by each contributor. Value of in-kind contributions should be included on appropriate lines as applicable. If the action will result in a dollar change to an existing award, indicate <u>only</u> the amount of the change. For decreases, enclose the amounts in parentheses. If both basic and supplemental amounts are included, show breakdown on an attached sheet. For multiple program funding, use totals and show breakdown using same categories as item 15. |
| 5. | Legal name of applicant, name of primary organizational unit which will undertake the assistance activity, complete address of the applicant, and name and telephone number of the person to contact on matters related to this application. | 16. | Applicants should contact the State Single Point of Contact (SPOC) for Federal Executive Order 12372 to determine whether the application is subject to the State intergovernmental review process. |
| 6. | Enter Employer Identification Number (EIN) as assigned by the Internal Revenue Service. | 17. | This question applies to the applicant organization, not the person who signs as the authorized representative. Categories of debt include delinquent audit disallowances, loans and taxes. |
| 7. | Enter the appropriate letter in the space provided. | 18. | To be signed by the authorized representative of the applicant. A copy of the governing body's authorization for you to sign this application as official representative must be on file in the applicant's office. (Certain Federal agencies may require that this authorization be submitted as part of the application.) |
| 8. | Check appropriate box and enter appropriate letter(s) in the space(s) provided:
— "New" means a new assistance award.
— "Continuation" means an extension for an additional funding/budget period for a project with a projected completion date.
— "Revision" means any change in the Federal Government's financial obligation or contingent liability from an existing obligation. | | |
| 9. | Name of Federal agency from which assistance is being requested with this application. | | |
| 10. | Use the Catalog of Federal Domestic Assistance number and title of the program under which assistance is requested. | | |
| 11. | Enter a brief descriptive title of the project. If more than one program is involved, you should append an explanation on a separate sheet. If appropriate (e.g., construction or real property projects), attach a map showing project location. For preapplications, use a separate sheet to provide a summary description of this project. | | |

ATTACHMENT B--SF-424A, "BUDGET INFORMATION--NON-CONSTRUCTION PROGRAMS"

OMB Approval No. 0348-0044

BUDGET INFORMATION -- Non-Construction Programs

SECTION A - BUDGET SUMMARY						
Grant Program Function or Activity (a)	Catalog of Federal Domestic Assistance Number (b)	Estimated Unobligated Funds		New or Revised Budget		Total (g)
		Federal (c)	Non-Federal (d)	Federal (e)	Non-Federal (f)	
1.		\$	\$	\$	\$	\$
2.						
3.						
4.						
5. TOTALS		\$	\$	\$	\$	\$
SECTION B - BUDGET CATEGORIES						
Object Class Categories	GRANT PROGRAM, FUNCTION OR ACTIVITY					Total (5)
	(1)	(2)	(3)	(4)	(5)	
a. Personnel	\$	\$	\$	\$	\$	\$
b. Fringe Benefits						
c. Travel						
d. Equipment						
e. Supplies						
f. Contractual						
g. Construction						
h. Other						
i. Total Direct Charges (sum of 6a - 6h)						
j. Indirect Charges						
k. TOTALS (sum of 6i and 6j)	\$	\$	\$	\$	\$	\$
7. Program Income	\$	\$	\$	\$	\$	\$

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Standard Form 424A (4-88)
Prescribed by OMB Circular A-102

OMB Approved No. 0348-0041

BUDGET INFORMATION — Construction Programs

NOTE: Certain Federal assistance programs require additional computations to arrive at the Federal share of project costs eligible for participation. If such is the case you will be notified.

COST CLASSIFICATION	a. Total Cost	b. Costs Not Allowable for Participation	c. Total Allowable Costs (Column a-b)
1. Administrative and legal expenses	\$.00	\$.00	\$.00
2. Land, structures, rights-of-way, appraisals, etc.	\$.00	\$.00	\$.00
3. Relocation expenses and payments	\$.00	\$.00	\$.00
4. Architectural and engineering fees	\$.00	\$.00	\$.00
5. Other architectural and engineering fees	\$.00	\$.00	\$.00
6. Project inspection fees	\$.00	\$.00	\$.00
7. Site work	\$.00	\$.00	\$.00
8. Demolition and removal	\$.00	\$.00	\$.00
9. Construction	\$.00	\$.00	\$.00
10. Equipment	\$.00	\$.00	\$.00
11. Miscellaneous	\$.00	\$.00	\$.00
12. SUBTOTAL	\$.00	\$.00	\$.00
13. Contingencies (sum of lines 1-11)	\$.00	\$.00	\$.00
14. SUBTOTAL	\$.00	\$.00	\$.00
15. Project (program) income	\$.00	\$.00	\$.00
16. TOTAL PROJECT COSTS (subtract #15 from #14)	\$.00	\$.00	\$.00
FEDERAL FUNDING			
17. Federal assistance requested, calculate as follows: Enter eligible costs from line 16c Multiply X _____ % (Consult Federal agency for Federal percentage share). Enter the resulting Federal share.			\$.00

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Standard Form 424C (4-88)
Prescribed by OMB Circular A-102

INSTRUCTIONS FOR THE SF-424A

General Instructions

This form is designed so that application can be made for funds from one or more grant programs. In preparing the budget, adhere to any existing Federal grantor agency guidelines which prescribe how and whether budgeted amounts should be separately shown for different functions or activities within the program. For some programs, grantor agencies may require budgets to be separately shown by function or activity. For other programs, grantor agencies may require a breakdown by function or activity. Sections A,B,C, and D should include budget estimates for the whole project except when applying for assistance which requires Federal authorization in annual or other funding period increments. In the latter case, Sections A,B, C, and D should provide the budget for the first budget period (usually a year) and Section E should present the need for Federal assistance in the subsequent budget periods. All applications should contain a breakdown by the object class categories shown in Lines a-k of Section B.

Section A. Budget Summary
Lines 1-4, Columns (a) and (b)

For applications pertaining to a *single* Federal grant program (Federal Domestic Assistance Catalog number) and *not requiring* a functional or activity breakdown, enter on Line 1 under Column (a) the catalog program title and the catalog number in Column (b).

For applications pertaining to a *single* program *requiring* budget amounts by multiple functions or activities, enter the name of each activity or function on each line in Column (a), and enter the catalog number in Column (b). For applications pertaining to multiple programs where none of the programs require a breakdown by function or activity, enter the catalog program title on each line in Column (a) and the respective catalog number on each line in Column (b).

For applications pertaining to *multiple* programs where one or more programs *require* a breakdown by function or activity, prepare a separate sheet for each program requiring the breakdown. Additional sheets should be used when one form does not provide adequate space for all breakdown of data required. However, when more than one sheet is used, the first page should provide the summary totals by programs.

Lines 1-4, Columns (c) through (g.)

For *new applications*, leave Columns (c) and (d) blank. For each line entry in Columns (a) and (b), enter in Columns (e), (f), and (g) the appropriate amounts of funds needed to support the project for the first funding period (usually a year).

Lines 1-4, Columns (c) through (g.) (continued)

For *continuing grant program applications*, submit these forms before the end of each funding period as required by the grantor agency. Enter in Columns (c) and (d) the estimated amounts of funds which will remain unobligated at the end of the grant funding period only if the Federal grantor agency instructions provide for this. Otherwise, leave these columns blank. Enter in columns (e) and (f) the amounts of funds needed for the upcoming period. The amount(s) in Column (g) should be the sum of amounts in Columns (e) and (f).

For *supplemental grants and changes* to existing grants, do not use Columns (c) and (d). Enter in Column (e) the amount of the increase or decrease of Federal funds and enter in Column (f) the amount of the increase or decrease of non-Federal funds. In Column (g) enter the new total budgeted amount (Federal and non-Federal) which includes the total previous authorized budgeted amounts plus or minus, as appropriate, the amounts shown in Columns (e) and (f). The amount(s) in Column (g) should not equal the sum of amounts in Columns (e) and (f).

Line 5 — Show the totals for all columns used.

Section B Budget Categories

In the column headings (1) through (4), enter the titles of the same programs, functions, and activities shown on Lines 1-4, Column (a), Section A. When additional sheets are prepared for Section A, provide similar column headings on each sheet. For each program, function or activity, fill in the total requirements for funds (both Federal and non-Federal) by object class categories.

Lines 6a-i — Show the totals of Lines 6a to 6h in each column.

Line 6j — Show the amount of indirect cost.

Line 6k — Enter the total of amounts on Lines 6i and 6j. For all applications for new grants and continuation grants the total amount in column (5), Line 6k, should be the same as the total amount shown in Section A, Column (g), Line 5. For supplemental grants and changes to grants, the total amount of the increase or decrease as shown in Columns (1)-(4), Line 6k should be the same as the sum of the amounts in Section A, Columns (e) and (f) on Line 5.

INSTRUCTIONS FOR THE SF-424A (continued)

Line 7 - Enter the estimated amount of income, if any, expected to be generated from this project. Do not add or subtract this amount from the total project amount. Show under the program narrative statement the nature and source of income. The estimated amount of program income may be considered by the federal grantor agency in determining the total amount of the grant.

Section C. Non-Federal Resources

Lines 8-11 - Enter amounts of non-Federal resources that will be used on the grant. If in-kind contributions are included, provide a brief explanation on a separate sheet.

Column (a) - Enter the program titles identical to Column (a), Section A. A breakdown by function or activity is not necessary.

Column (b) - Enter the contribution to be made by the applicant.

Column (c) - Enter the amount of the State's cash and in-kind contribution if the applicant is not a State or State agency. Applicants which are a State or State agencies should leave this column blank.

Column (d) - Enter the amount of cash and in-kind contributions to be made from all other sources.

Column (e) - Enter totals of Columns (b), (c), and (d).

Line 12 - Enter the total for each of Columns (b)-(e). The amount in Column (e) should be equal to the amount on Line 5, Column (f), Section A.

Section D. Forecasted Cash Needs

Line 13 - Enter the amount of cash needed by quarter from the grantor agency during the first year.

Line 14 - Enter the amount of cash from all other sources needed by quarter during the first year.

Line 15 - Enter the totals of amounts on Lines 13 and 14.

Section E. Budget Estimates of Federal Funds Needed for Balance of the Project

Lines 16 - 19 - Enter in Column (a) the same grant program titles shown in Column (a), Section A. A breakdown by function or activity is not necessary. For new applications and continuation grant applications, enter in the proper columns amounts of Federal funds which will be needed to complete the program or project over the succeeding funding periods (usually in years). This section need not be completed for revisions (amendments, changes, or supplements) to funds for the current year of existing grants.

If more than four lines are needed to list the program titles, submit additional schedules as necessary.

Line 20 - Enter the total for each of the Columns (b)-(e). When additional schedules are prepared for this Section, annotate accordingly and show the overall totals on this line.

Section F. Other Budget Information

Line 21 - Use this space to explain amounts for individual direct object-class cost categories that may appear to be out of the ordinary or to explain the details as required by the Federal grantor agency.

Line 22 - Enter the type of indirect rate (provisional, predetermined, final or fixed) that will be in effect during the funding period, the estimated amount of the base to which the rate is applied, and the total indirect expense.

Line 23 - Provide any other explanations or comments deemed necessary.

ATTACHMENT C--SF 424B, "ASSURANCES--NON-CONSTRUCTION PROGRAMS"

OMB Approval No. 0348-0040

ASSURANCES — NON-CONSTRUCTION PROGRAMS

Note: Certain of these assurances may not be applicable to your project or program. If you have questions, please contact the awarding agency. Further, certain Federal awarding agencies may require applicants to certify to additional assurances. If such is the case, you will be notified.

As the duly authorized representative of the applicant I certify that the applicant:

1. Has the legal authority to apply for Federal assistance, and the institutional, managerial and financial capability (including funds sufficient to pay the non-Federal share of project costs) to ensure proper planning, management and completion of the project described in this application.
2. Will give the awarding agency, the Comptroller General of the United States, and if appropriate, the State, through any authorized representative, access to and the right to examine all records, books, papers, or documents related to the award; and will establish a proper accounting system in accordance with generally accepted accounting standards or agency directives.
3. Will establish safeguards to prohibit employees from using their positions for a purpose that constitutes or presents the appearance of personal or organizational conflict of interest, or personal gain.
4. Will initiate and complete the work within the applicable time frame after receipt of approval of the awarding agency.
5. Will comply with the Intergovernmental Personnel Act of 1970 (42 U.S.C. §§ 4728-4763) relating to prescribed standards for merit systems for programs funded under one of the nineteen statutes or regulations specified in Appendix A of OPM's Standards for a Merit System of Personnel Administration (5 C.F.R. 900, Subpart F).
6. Will comply with all Federal statutes relating to nondiscrimination. These include but are not limited to: (a) Title VI of the Civil Rights Act of 1964 (P.L. 88-352) which prohibits discrimination on the basis of race, color or national origin; (b) Title IX of the Education Amendments of 1972, as amended (20 U.S.C. §§ 1681-1683, and 1685-1686), which prohibits discrimination on the basis of sex; (c) Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. § 794), which prohibits discrimination on the basis of handicaps; (d) the Age Discrimination Act of 1975, as amended (42 U.S.C. §§ 6101-6107), which prohibits discrimination on the basis of age;
- (e) the Drug Abuse Office and Treatment Act of 1972 (P.L. 92-255), as amended, relating to nondiscrimination on the basis of drug abuse; (f) the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970 (P.L. 91-616), as amended, relating to nondiscrimination on the basis of alcohol abuse or alcoholism; (g) §§ 523 and 527 of the Public Health Service Act of 1912 (42 U.S.C. 290 dd-3 and 290 ee-3), as amended, relating to confidentiality of alcohol and drug abuse patient records; (h) Title VIII of the Civil Rights Act of 1968 (42 U.S.C. § 3601 et seq.), as amended, relating to nondiscrimination in the sale, rental or financing of housing; (i) any other nondiscrimination provisions in the specific statute(s) under which application for Federal assistance is being made; and (j) the requirements of any other nondiscrimination statute(s) which may apply to the application.
7. Will comply, or has already complied, with the requirements of Titles II and III of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (P.L. 91-646) which provide for fair and equitable treatment of persons displaced or whose property is acquired as a result of Federal or federally assisted programs. These requirements apply to all interests in real property acquired for project purposes regardless of Federal participation in purchases.
8. Will comply with the provisions of the Hatch Act (5 U.S.C. §§ 1501-1508 and 7324-7328) which limit the political activities of employees whose principal employment activities are funded in whole or in part with Federal funds.
9. Will comply, as applicable, with the provisions of the Davis-Bacon Act (40 U.S.C. §§ 276a to 276a-7), the Copeland Act (40 U.S.C. § 276c and 18 U.S.C. §§ 874), and the Contract Work Hours and Safety Standards Act (40 U.S.C. §§ 327-333), regarding labor standards for federally assisted construction subagreements.

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10. Will comply, if applicable, with flood insurance purchase requirements of Section 102(a) of the Flood Disaster Protection Act of 1973 (P.L. 93-234) which requires recipients in a special flood hazard area to participate in the program and to purchase flood insurance if the total cost of insurable construction and acquisition is \$10,000 or more.
11. Will comply with environmental standards which may be prescribed pursuant to the following: (a) institution of environmental quality control measures under the National Environmental Policy Act of 1969 (P.L. 91-190) and Executive Order (EO) 11514; (b) notification of violating facilities pursuant to EO 11738; (c) protection of wetlands pursuant to EO 11990; (d) evaluation of flood hazards in floodplains in accordance with EO 11988; (e) assurance of project consistency with the approved State management program developed under the Coastal Zone Management Act of 1972 (16 U.S.C. §§ 1451 et seq.); (f) conformity of Federal actions to State (Clear Air) Implementation Plans under Section 176(c) of the Clear Air Act of 1955, as amended (42 U.S.C. § 7401 et seq.); (g) protection of underground sources of drinking water under the Safe Drinking Water Act of 1974, as amended, (P.L. 93-523); and (h) protection of endangered species under the Endangered Species Act of 1973, as amended, (P.L. 93-205).
12. Will comply with the Wild and Scenic Rivers Act of 1968 (16 U.S.C. §§ 1271 et seq.) related to protecting components or potential components of the national wild and scenic rivers system.
13. Will assist the awarding agency in assuring compliance with Section 106 of the National Historic Preservation Act of 1966, as amended (16 U.S.C. 470), EO 11593 (identification and protection of historic properties), and the Archaeological and Historic Preservation Act of 1974 (16 U.S.C. 469a-1 et seq.).
14. Will comply with P.L. 93-348 regarding the protection of human subjects involved in research, development, and related activities supported by this award of assistance.
15. Will comply with the Laboratory Animal Welfare Act of 1966 (P.L. 89-544, as amended, 7 U.S.C. 2131 et seq.) pertaining to the care, handling, and treatment of warm blooded animals held for research, teaching, or other activities supported by this award of assistance.
16. Will comply with the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. §§ 4801 et seq.) which prohibits the use of lead based paint in construction or rehabilitation of residence structures.
17. Will cause to be performed the required financial and compliance audits in accordance with the Single Audit Act of 1984.
18. Will comply with all applicable requirements of all other Federal laws, executive orders, regulations and policies governing this program.

SIGNATURE OF AUTHORIZED CERTIFYING OFFICIAL	TITLE	
APPLICANT ORGANIZATION	DATE SUBMITTED	

ATTACHMENT D - U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES
 CERTIFICATION REGARDING DRUG-FREE WORKPLACE REQUIREMENTS --
 GRANTEES OTHER THAN INDIVIDUALS

U.S. Department of Health and Human Services
Certification Regarding Drug-Free Workplace Requirements
Grantees Other Than Individuals

By signing and/or submitting this application or grant agreement, the grantee is providing the certification set out below.

This certification is required by regulations implementing the Drug-Free Workplace Act of 1988, 45 CFR Part 76, Subpart F. The regulations, published in the May 25, 1990 Federal Register, require certification by grantees that they will maintain a drug-free workplace. The certification set out below is a material representation of fact upon which reliance will be placed when the Department of Health and Human Services (HHS) determines to award the grant. If it is later determined that the grantee knowingly rendered a false certification, or otherwise violates the requirements of the Drug-Free Workplace Act, HHS, in addition to any other remedies available to the Federal Government, may take action authorized under the Drug-Free Workplace Act. False certification or violation of the certification shall be grounds for suspension of payments, suspension or termination of grants, or governmentwide suspension or debarment.

Workplaces under grants, for grantees other than individuals, need not be identified on the certification. If known, they may be identified in the grant application. If the grantee does not identify the workplaces at the time of application, or upon award, if there is no application, the grantee must keep the identity of the workplace(s) on file in its office and make the information available for Federal inspection. Failure to identify all known workplaces constitutes a violation of the grantee's drug-free workplace requirements.

Workplace identifications must include the actual address of buildings (or parts of buildings) or other sites where work under the grant takes place. Categorical descriptions may be used (e.g., all vehicles of a mass transit authority or State highway department while in operation, State employees in each local unemployment office, performers in concert halls or radio studios.)

If the workplace identified to HHS changes during the performance of the grant, the grantee shall inform the agency of the change(s), if it previously identified the workplaces in question (see above).

Definitions of terms in the Nonprocurement Suspension and Debarment common rule and Drug-Free Workplace common rule apply to this certification. Grantees' attention is called, in particular, to the following definitions from these rules:

"Controlled substance" means a controlled substance in Schedules I through V of the Controlled Substances Act (21 USC 812) and as further defined by regulation (21 CFR 1308.11 through 1308.15).

"Conviction" means a finding of guilt (including a plea of nolo contendere) or imposition of sentence, or both, by any judicial body charged with the responsibility to determine violations of the Federal or State criminal drug statutes;

"Criminal drug statute" means a Federal or non-Federal criminal statute involving the manufacture, distribution, dispensing, use, or possession of any controlled substance;

"Employee" means the employee of a grantee directly engaged in the performance of work under a grant, including: (i) All "direct charge" employees; (ii) all "indirect charge" employees unless their impact or involvement is insignificant to the performance of the grant; and, (iii) temporary personnel and consultants who are directly engaged in the performance of work under the grant and who are on the grantee's payroll. This definition does not include workers not on the payroll of the grantee (e.g., volunteers, even if used to meet a matching requirement; consultants or independent contractors not on the grantee's payroll; or employees of subrecipients or subcontractors in covered workplaces).

The grantee certifies that it will or will continue to provide a drug-free workplace by:

(a) Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession or use of a controlled substance is prohibited in the grantee's workplace and specifying the actions that will be taken against employees for violation of such prohibition;

(b) Establishing an ongoing drug-free awareness program to inform employees about:

(1) The dangers of drug abuse in the workplace; (2) The grantee's policy of maintaining a drug-free workplace; (3) Any available drug counseling, rehabilitation, and employee assistance programs; and, (4) The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace;

(c) Making it a requirement that each employee to be engaged in the performance of the grant be given a copy of the statement required by paragraph (a);

(d) Notifying the employee in the statement required by paragraph (a) that, as a condition of employment under the grant, the employee will:

(1) Abide by the terms of the statement; and, (2) Notify the employer in writing of his or her conviction for a violation of a criminal drug statute occurring in the workplace no later than five calendar days after such conviction;

(e) Notifying the agency in writing, within ten calendar days after receiving notice under subparagraph (d)(2) from an employee or otherwise receiving actual notice of such conviction. Employers of convicted employees must provide notice, including position title, to every grant officer or other designee on whose grant activity the convicted employee was working, unless the Federal agency has designated a central point for the receipt of such notices. Notice shall include the identification number(s) of each affected grant;

(Continued on reverse side of this sheet)

HHS—Certification Regarding Drug-Free Workplace Requirements—continued from reverse page

(f) Taking one of the following actions, within 30 calendar days of receiving notice under subparagraph (d)(2), with respect to any employee who is so convicted:

(1) Taking appropriate personnel action against such an employee, up to and including termination, consistent with the requirements of the Rehabilitation Act of 1973, as amended; or, (2) Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State, or local health, law enforcement, or other appropriate agency;

(g) Making a good faith effort to continue to maintain a drug-free workplace through implementation of paragraphs (a), (b), (c), (d), (e) and (f).

The grantee may insert in the space provided below the site(s) for the performance of work done in connection with the specific grant (use attachments, if needed):

Place of Performance (Street address, City, County, State, ZIP Code) _____

Check ☐ if there are workplaces on file that are not identified here.

Sections 76.630(c) and (d)(2) and 76.635(a)(1) and (b) provide that a Federal agency may designate a central receipt point for STATE-WIDE AND STATE AGENCY-WIDE certifications, and for notification of criminal drug convictions. For the Department of Health and Human Services, the central receipt point is: Division of Grants Management and Oversight, Office of Management and Acquisition, Department of Health and Human Services, Room 517-D, 200 Independence Avenue, S.W., Washington, D.C. 20201.

Signature _____

Date _____

Title _____

Organization _____

DGMO Form#2 Revised May 1990

Attachment E—Certification Regarding Debarment, Suspension, and Other Responsibility Matters—Primary Covered Transactions

By signing and submitting this proposal, the applicant, defined as the primary participant in accordance with 45 CFR part 76, certifies to the best of its knowledge and belief that its principals involved:

- (a) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency;
- (b) Have not within a 3-year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State, or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
- (c) Are not presently indicted or otherwise criminally or civilly charged by a government entity (Federal, State or local) with commission of any of the offenses enumerated in paragraph (1)(b) of this certification; and
- (d) Have not within a 3-year period preceding this application/proposal had one or more public transactions (Federal, State, or local) terminated for cause or default.

The inability of a person to provide the certification required above will not necessarily result in denial of participation for this covered transaction. If necessary, the prospective participant shall submit an explanation of why it cannot provide the certification. The certification or explanation will be considered in connection with the Department of Health and Human Services' (HHS) determination whether to enter into this transaction. However, failure of the prospective primary participant to furnish a certification or an explanation shall disqualify such person from participation in this transaction. The prospective primary participant agrees that by submitting this proposal, it will include the clause entitled "Certification Regarding Debarment, Suspension, Ineligibility, and Voluntary Exclusion—Lower Tier Covered Transactions",

provided below, without modification in all lower tier covered transactions and in all solicitations for lower tier covered actions.

Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusions—Lower Tier Covered Transactions (To Be Supplied to Lower Tier Participants)

By signing and submitting this lower tier proposal, the prospective lower tier participant, as defined in 45 CFR part 76, certifies to the best of its knowledge and belief that it and its principals:

- (a) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.
 - (b) Where the prospective lower tier participant is unable to certify to any of the above, such prospective participant shall attach an explanation to this proposal.
- The prospective lower tier participant further agrees by submitting this proposal that it will include this clause entitled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusions—Lower Tier Covered Transactions" without modification in all lower tier covered transactions and in all solicitations for lower tier covered transactions.

Attachment F—Certification Regarding Anti-Lobbying Provisions

Certification for Contracts, Grants, Loans, and Cooperative Agreements

The undersigned certifies, to the best of his or her knowledge and belief, that:

- (1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
- (2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a

Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

(3) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

Statement for Loan Guarantees and Loan Insurance

The undersigned states, to the best of his or her knowledge and belief, that:

If any funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this commitment providing for the United States to insure or guarantee a loan, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

Submission of this statement is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required statement shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

Signature

Title

Organization

Date

BILLING CODE 4150-04-M

ATTACHMENT F--CERTIFICATION REGARDING THE ANTI-LOBBYING PROVISIONS

DISCLOSURE OF LOBBYING ACTIVITIES

Approved by OMB
0346-0046Complete this form to disclose lobbying activities pursuant to 31 U.S.C. 1352
(See reverse for public burden disclosure.)

1. Type of Federal Action: <input type="checkbox"/> a. contract <input type="checkbox"/> b. grant <input type="checkbox"/> c. cooperative agreement <input type="checkbox"/> d. loan <input type="checkbox"/> e. loan guarantee <input type="checkbox"/> f. loan insurance	2. Status of Federal Action: <input type="checkbox"/> a. bid/offer/application <input type="checkbox"/> b. initial award <input type="checkbox"/> c. post-award	3. Report Type: <input type="checkbox"/> a. initial filing <input type="checkbox"/> b. material change For Material Change Only: year _____ quarter _____ date of last report _____
4. Name and Address of Reporting Entity: <input type="checkbox"/> Prime <input type="checkbox"/> Subawardee Tier _____, if known: Congressional District, if known: _____		5. If Reporting Entity in No. 4 is Subawardee, Enter Name and Address of Prime: Congressional District, if known: _____
6. Federal Department/Agency:	7. Federal Program Name/Description: CFDA Number, if applicable: _____	
8. Federal Action Number, if known:	9. Award Amount, if known: \$ _____	
10. a. Name and Address of Lobbying Entity (if individual, last name, first name, MI): <div style="text-align: center;">(attach Continuation Sheet(s) SF-LLL-A, if necessary)</div>		b. Individuals Performing Services (including address if different from No. 10a) (last name, first name, MI): <div style="text-align: center;">(attach Continuation Sheet(s) SF-LLL-A, if necessary)</div>
11. Amount of Payment (check all that apply): \$ _____ <input type="checkbox"/> actual <input type="checkbox"/> planned	13. Type of Payment (check all that apply): <input type="checkbox"/> a. retainer <input type="checkbox"/> b. one-time fee <input type="checkbox"/> c. commission <input type="checkbox"/> d. contingent fee <input type="checkbox"/> e. deferred <input type="checkbox"/> f. other; specify: _____	
12. Form of Payment (check all that apply): <input type="checkbox"/> a. cash <input type="checkbox"/> b. in-kind; specify: nature _____ value _____		
14. Brief Description of Services Performed or to be Performed and Date(s) of Service, including officer(s), employee(s), or Member(s) contacted, for Payment Indicated in Item 11: <div style="text-align: center;">(attach Continuation Sheet(s) SF-LLL-A, if necessary)</div>		
15. Continuation Sheet(s) SF-LLL-A attached: <input type="checkbox"/> Yes <input type="checkbox"/> No		
16. Information requested through this form is authorized by title 31 U.S.C. section 1352. This disclosure of lobbying activities is a material representation of fact upon which reliance was placed by the tier above when this transaction was made or entered into. This disclosure is required pursuant to 31 U.S.C. 1352. This information will be reported to the Congress semi-annually and will be available for public inspection. Any person who fails to file the required disclosure shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.		
Signature: _____ Print Name: _____ Title: _____ Telephone No.: _____ Date: _____		Authorized for Local Reproduction Standard Form - LLL
Federal Use Only:		

INSTRUCTIONS FOR COMPLETION OF SF-LLL, DISCLOSURE OF LOBBYING ACTIVITIES

This disclosure form shall be completed by the reporting entity, whether subawardee or prime Federal recipient, at the initiation or receipt of a covered Federal action, or a material change to a previous filing, pursuant to title 31 U.S.C. section 1352. The filing of a form is required for each payment or agreement to make payment to any lobbying entity for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with a covered Federal action. Use the SF-LLL-A Continuation Sheet for additional information if the space on the form is inadequate. Complete all items that apply for both the initial filing and material change report. Refer to the implementing guidance published by the Office of Management and Budget for additional information.

1. Identify the type of covered Federal action for which lobbying activity is and/or has been secured to influence the outcome of a covered Federal action.
2. Identify the status of the covered Federal action.
3. Identify the appropriate classification of this report. If this is a followup report caused by a material change to the information previously reported, enter the year and quarter in which the change occurred. Enter the date of the last previously submitted report by this reporting entity for this covered Federal action.
4. Enter the full name, address, city, state and zip code of the reporting entity. Include Congressional District, if known. Check the appropriate classification of the reporting entity that designates if it is, or expects to be, a prime or subaward recipient. Identify the tier of the subawardee, e.g., the first subawardee of the prime is the 1st tier. Subawards include but are not limited to subcontracts, subgrants and contract awards under grants.
5. If the organization filing the report in item 4 checks "Subawardee", then enter the full name, address, city, state and zip code of the prime Federal recipient. Include Congressional District, if known.
6. Enter the name of the Federal agency making the award or loan commitment. Include at least one organizational level below agency name, if known. For example, Department of Transportation, United States Coast Guard.
7. Enter the Federal program name or description for the covered Federal action (item 1). If known, enter the full Catalog of Federal Domestic Assistance (CFDA) number for grants, cooperative agreements, loans, and loan commitments.
8. Enter the most appropriate Federal identifying number available for the Federal action identified in item 1 (e.g., Request for Proposal (RFP) number; Invitation for Bid (IFB) number; grant announcement number; the contract, grant, or loan award number; the application/proposal control number assigned by the Federal agency). Include prefixes, e.g., "RFP-DE-90-001."
9. For a covered Federal action where there has been an award or loan commitment by the Federal agency, enter the Federal amount of the award/loan commitment for the prime entity identified in item 4 or 5.
10. (a) Enter the full name, address, city, state and zip code of the lobbying entity engaged by the reporting entity identified in item 4 to influence the covered Federal action.
(b) Enter the full names of the individual(s) performing services, and include full address if different from 10 (a). Enter Last Name, First Name, and Middle Initial (MI).
11. Enter the amount of compensation paid or reasonably expected to be paid by the reporting entity (item 4) to the lobbying entity (item 10). Indicate whether the payment has been made (actual) or will be made (planned). Check all boxes that apply. If this is a material change report, enter the cumulative amount of payment made or planned to be made.
12. Check the appropriate box(es). Check all boxes that apply. If payment is made through an in-kind contribution, specify the nature and value of the in-kind payment.
13. Check the appropriate box(es). Check all boxes that apply. If other, specify nature.
14. Provide a specific and detailed description of the services that the lobbyist has performed, or will be expected to perform, and the date(s) of any services rendered. Include all preparatory and related activity, not just time spent in actual contact with Federal officials. Identify the Federal official(s) or employee(s) contacted or the officer(s), employee(s), or Member(s) of Congress that were contacted.
15. Check whether or not a SF-LLL-A Continuation Sheet(s) is attached.
16. The certifying official shall sign and date the form, print his/her name, title, and telephone number.

Public reporting burden for this collection of information is estimated to average 30 minutes per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Office of Management and Budget, Paperwork Reduction Project (0348-0046), Washington, D.C. 20503.

DISCLOSURE OF LOBBYING ACTIVITIES **CONTINUATION SHEET**

Approved by OMB
0348-0046

Reporting Entity: _____ Page _____ of _____

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Standard Form - LLI-A

Attachment G—State Single Points of Contact**Alabama**

Mrs. Moncell Thornell, State Single Point of Contact, Alabama Department of Economic & Community Affairs, 3465 Norman Bridge Road, Post Office Box 250347, Montgomery, Alabama 36125-0347, Telephone (205) 284-8905

Arizona

Ms. Janice Dunn, Arizona State Clearinghouse, 3800 N. Central Avenue, Fourteenth Floor, Phoenix, Arizona 85012, Telephone (602) 280-1315

Arkansas

Mr. Joseph Gillespie, Manager, State Clearinghouse, Office of Intergovernmental Service, Department of Finance and Administration, P.O. Box 3278, Little Rock, Arkansas 72203, Telephone (501) 371-1074

California

Glenn Stober, Grants Coordinator, Office of Planning and Research, 1400 Tenth Street, Sacramento, California 95814, Telephone (916) 323-7480

Colorado

State Single Point of Contact State Clearinghouse, Division of Local Government, 1313 Sherman Street, Room 520, Denver, Colorado 80203, Telephone (303) 866-2156

Connecticut

Under Secretary, Attn: Intergovernmental Review coordinator, Comprehensive Planning Division, Office of Policy and Management, 80 Washington Street, Hartford, Connecticut 06106-4459, Telephone (203) 566-3410

Delaware

Francine Booth, State Single Point of Contact, Executive Department, Thomas Collins Building, Dover, Delaware 19903, Telephone (302) 738-3326

District of Columbia

Lovetta Davis, State Single Point of Contact, Executive Office of the Mayor, Office of Intergovernmental Relations, Room 416, District Building, 1350 Pennsylvania Avenue, NW., Washington, D.C. 20004, Telephone (202) 727-9111

Florida

Karen McFarland, Director, Florida State Clearinghouse, Executive Office of the Governor, Office of Planning and Budgeting, The Capitol, Tallahassee, Florida 32399-0001, Telephone (904) 488-8114

Georgia

Charles H. Badger, Administrator, Georgia State Clearinghouse, 270 Washington Street SW., Atlanta, Georgia 30334, Telephone (404) 656-3855

Hawaii

Mr. Harold S. Masumoto, Acting Director, Office of State Planning, Department of Planning and Economic Development,

Office of the Governor, State Capitol, Honolulu, Hawaii 96813, Telephone (808) 548-3016 or 548-3085

Illinois

Tom Berkshire, State Single Point of Contact, Office of the Governor, State of Illinois, Springfield, Illinois 62706, Telephone (217) 782-8639

Indiana

Frank Sullivan, Budget Director, State Budget Agency, 212 State House, Indianapolis, Indiana 46204, Telephone (317) 232-5610

Iowa

Steven R. McCann, Division for Community Progress, Iowa Department of Economic Development, 200 East Grand Avenue, Des Moines, Iowa 50309, Telephone (515) 281-3725

Kentucky

Robert Leonard, State Single Point of Contact, Kentucky State Clearinghouse, 2nd Floor Capital Plaza Tower, Frankfort, Kentucky 40601, Telephone (502) 564-2382.

Maine

State Single Point of Contact, Attn: Joyce Benson, State Planning Office, State House Station #38, Augusta, Maine 04333, Telephone (207) 289-3261.

Maryland

Mary Abrams, Chief, Maryland State Clearinghouse, Department of State Planning, 301 West Preston Street, Baltimore, Maryland 21201-2365, Telephone (301) 225-4490.

Massachusetts

State Single Point of Contact, Attn: Beverly Boyle, Executive Office of Communities & Development, 100 Cambridge Street, Room 1803, Boston, Massachusetts 02202, Telephone (617) 727-7001.

Michigan

Milton O. Waters, Director of Operations, Michigan Neighborhood Builders Alliance, Michigan Department of Commerce, Telephone (517) 373-7111.

Please direct correspondence to: Manager, Federal Project Review, Michigan Department of Commerce, Michigan Neighborhood Builders Alliance, P.O. Box 30242, Lansing, Michigan 48909, Telephone (517) 373-6223.

Mississippi

Cathy Mallette, Clearinghouse Officer, Department of Finance and Administration, Office of Policy Development, 421 West Pascagoula Street, Jackson, Mississippi 39203, Telephone (601) 960-4280.

Missouri

Lois Pohl, Federal Assistance Clearinghouse, Office of Administration, Division of General Services, P.O. Box 809, Room 430, Truman Building, Jefferson City, Missouri 65102, Telephone (314) 751-4834.

Montana

Deborah Stanton, State Single Point of Contact, Intergovernmental Review

Clearinghouse, c/o Office of Budget and Program Planning, Capitol Station, Room 202—State Capitol, Helena, Montana 59620, Telephone (406) 444-5522.

Nevada

Department of Administration, State Clearinghouse, Capitol Complex, Carson City, NV. 89710, ATTN: John B. Walker, Clearinghouse Coordinator.

New Hampshire

Jeffery H. Taylor, Director, New Hampshire Office of State Planning, Attn: Intergovernmental Review Process/James E. Bieber, 2½ Beacon Street, Concord, New Hampshire 03301, Telephone (603) 271-2155.

New Jersey

Barry Skokowski, Director, Division of Local Government Services, Department of Community Affairs, CN 803, Trenton, New Jersey 08625-0803, Telephone (609) 292-6613.

Please direct correspondence and questions to: Nelson S. Silver, State Review Process, Division of Local Government Services, CN 803, Trenton, New Jersey 08625-0803, Telephone (609) 292-9025.

New Mexico

Dorothy E. (Duffy) Rodriguez, Deputy Director, State Budget Division, Department of Finance & Administration, Room 190, Bataan Memorial Building, Santa Fe, New Mexico 87503, Telephone (505) 827-3640.

New York

New York State Clearinghouse, Division of the Budget, State Capitol, Albany, New York 12224, Telephone (518) 474-1605.

North Carolina

Mrs. Chrys Baggett, Director, Intergovernmental Relations, N.C. Department of Administration, 118 W. Jones Street, Raleigh, North Carolina 27611, Telephone (919) 733-0499

North Dakota

William Robinson, State Single Point of Contact, Office of Intergovernmental Affairs, Office of Management and Budget, 14th Floor, State Capitol, Bismarck, North Dakota, 58505 Telephone (701) 224-2094

Ohio

Larry Weaver, State Single Point of Contact, State/Federal Funds Coordinator, State Clearinghouse, Office of Budget and Management, 30 East Broad Street, 34th Floor, Columbus, Ohio 43266-0411, Telephone (614) 466-0698

Oklahoma

Don Strain, State Single Point of Contact, Oklahoma Department of Commerce, Office of Federal Assistance Management, 6601 Broadway Extension, Oklahoma City, Oklahoma 73116, Telephone (405) 843-9770

Oregon

Attn: Dolores Streeter, State Single Point of Contact, Intergovernmental Relations

Division, State Clearinghouse, 155 Cottage Street NE., Salem, Oregon 97310, Telephone (503) 373-1998

Pennsylvania

Sandra Kline, Project Coordinator, Pennsylvania Intergovernmental Council, P.O. Box 11880, Harrisburg, Pennsylvania 17108, Telephone (717) 783-3700

Rhode Island

Daniel W. Varin, Associate Director, Statewide Planning Program, Department of Administration, Division of Planning, 265 Melrose Street, Providence, Rhode Island 02907, Telephone (401) 277-2658.

Please direct correspondence and questions to: Review Coordinator, Office of Strategic Planning.

South Carolina

Danny L. Cromer, State Single Point of Contact, Grant Services, Office of the Governor, 1205 Pendleton Street, Room 477, Columbia, South Carolina 29201, Telephone (803) 734-0493

South Dakota

Susan Comer, State Clearinghouse Coordinator, Office of the Governor, 500 East Capitol, Pierre, South Dakota 57501, Telephone (605) 773-3212

Tennessee

Charles Brown, State Single Point of Contact, State Planning Office, 500 Charlotte Avenue, 309 John Sevier Building, Nashville, Tennessee 37219, Telephone (615) 741-1676

Texas

Tom Adams, Governor's Office of Budget and Planning, P.O. Box 12428, Austin, Texas 78711, Telephone (512) 463-1778

Utah

Utah State Clearinghouse, Attn: Carolyn Wright, Office of Planning and Budget, State of Utah, 116 State Capitol Building, Salt Lake City, Utah 84114, Telephone (801) 538-1547

Vermont

Bernard D. Johnson, Assistant Director, Office of Policy Research & Coordination, Pavilion Office Building, 109 State Street, Montpelier, Vermont 05602, Telephone (802) 828-3328

Washington

Marilyn Dawson, Washington Intergovernmental Review Process, Department of Community Development, 9th and Columbia Building, Mail Stop GH-51, Olympia, Washington 98504-4151, Telephone (206) 753-4978

West Virginia

Fred Cutlip, Director, Community Development Division, Governor's Office of Community and Industrial Development, Building #6, Room 553, Charleston, West Virginia 25305, Telephone (304) 348-4010

Wisconsin

James R. Klauser, Secretary, Wisconsin Department of Administration, 101 South

Webster Street, GEF 2, P.O. Box 7884, Madison, Wisconsin 53707-7884, Telephone (608) 268-1741.

Please direct correspondence and questions to: William C. Carey, Section Chief, Federal-State Relations Office, Wisconsin Department of Administration, (608) 268-0267.

Wyoming

Ann Redman, State Single Point of Contact, Wyoming State Clearinghouse, State Planning Coordinator's Office, Capitol Building, Cheyenne, Wyoming 82002, Telephone (307) 777-7574

TERRITORIES

Guam

Michael J. Reidy, Director, Bureau of Budget and Management Research, Office of the Governor, P.O. Box 2950, Agaña, Guam 96910, Telephone (671) 472-2285

Northern Mariana Islands

State Single Point of Contact, Planning and Budget Office, Office of the Governor, Saipan, CM, Northern Mariana Islands 96950

Puerto Rico

Patria Custodio/Israel Soto Marrero, Chairman/Director, Puerto Rico Planning Board, Minillas Government Center, P.O. Box 41119, San Juan, Puerto Rico 00940-9985, Telephone (809) 727-4444

Virgin Islands

Jose L. George, Director, Office of Management and Budget, No. 32 & 33 Kongens Gade, Charlotte Amalie, V.I. 00802, Telephone (809) 774-0750

Attachment H—DHHS Regulations That Apply to all Applicants/Grantees Under the Training and Technical Assistance Program

Title 45 of the Code of Federal Regulations:

- Part 16—Procedures of the Departmental Grant Appeals Board
- Part 74—Administration of Grants (non-governmental)
- Part 74—Administration of Grants (state and local governments and Indian Tribal affiliates):
- Sections
 - 74.62(a) Non-Federal Audits
 - 74.173 Hospitals
 - 74.174(b) Other Nonprofit Organizations
 - 74.304 Final Decisions in Disputes
 - 74.710 Real Property, Equipment and Supplies
 - 74.715 General Program Income
- Part 75—(Informal Grant Appeal Procedures)
- Part 76—Debarment and Suspension from Eligibility for Financial Assistance

Subpart F—Drug Free Workplace Requirements

Part 80—Non-discrimination, Under Programs Receiving Federal Assistance through the Department of Health and Human Services, Effectuation of Title VI of the Civil Rights Act of 1964

Part 81—Practice and Procedures for Hearings Under Part 80 of this Title

Part 83—Non-discrimination on the basis of sex in the admission of individuals to training programs

Part 84—Non-discrimination on the Basis of Handicap in Programs

Part 91—Non-discrimination of the Basis of Age in Health and Human Services Programs of Activities Receiving Federal Financial Assistance

Part 92—Uniform Administrative Requirements for Grants and Cooperative Agreements to States and Local Governments (Federal Register, March 11, 1988)

Part 93—New Restrictions on Lobbying

Part 100—Intergovernmental Review of Department of Health and Human Services Programs and Activities

Attachment I—Checklist for use in Submitting OCS Grant Applications (Optional)

The application should contain:

1. A complete, signed SF-424, "Application for Federal Assistance". The letter code for the priority area (TA or TD) should be in the lower right-hand corner of the page;
2. A completed "Budget Information-Non-Construction" (SF-424A);
3. A signed "Assurances-Non-Construction" (SF-424A);
4. A Project Narrative beginning with a Table of Contents that describes the project in the following order:
 - (a) Analysis of Needs/Priorities.
 - (b) Work Program.
 - (c) Significant and Beneficial Impact.
 - (d) Management History.
 - (e) Staffing and Resources.
5. Appendices including proof of non-profit status, Single Points of Contact comments (where applicable), resumes;
6. A signed copy of "Certification Regarding Anti-Lobbying Activities";
7. A completed "Disclosures of Lobbying Activities", if appropriate; and
8. A self-addressed mailing label which can be affixed to a post-card to acknowledge receipt of application.

The application should not exceed a total of 30 pages. It should include one original and four identical copies, printed on white 8½ by 11 inch paper, and be presented in a ring binder. The applicant must be aware that in signing and submitting the application for this award, it is certifying that it will comply with the Federal requirements concerning the drug-free workplace and debarment regulations set forth in attachments D and E

[FR Doc. 91-13043 Filed 6-3-91; 8:45 am]

BILLING CODE 4150-04-M

Get Labor

Tuesday,
June 4, 1991

Part VIII

Education Department

**National Workplace Literacy Program;
Notice Inviting Applications for New
Awards for Fiscal Year 1992**

DEPARTMENT OF EDUCATION

[CFDA No.: 84.198]

**National Workplace Literacy Program;
Notice Inviting Applications for New
Awards for Fiscal Year 1992**

Note to Applicants: This notice is a complete application package. Together with the statute authorizing the program and applicable regulations governing the program, including the Education Department General Administrative Regulations (EDGAR), the notice contains all the information, application forms, and instructions needed to apply for a grant under this competition.

Purpose of Program: The National Workplace Literacy Program provides assistance for demonstration projects that teach literacy skills needed in the workplace through exemplary education partnerships between business, industry, or labor organizations and educational organizations.

Eligible Applicants:

(a) Awards are provided to exemplary partnerships between—

(1) A business, industry, or labor organization, or private industry council; and

(2) A State educational agency (SEA), local educational agency (LEA), institution of higher education, or school (including an area vocational school, an employment and training agency, or a community-based organization).

(b) A partnership must include as partners at least one entity from paragraph (a)(1) above and at least one entity from paragraph (a)(2) above, and may include more than one entity from each group.

(c)(1) The partners shall apply jointly to the Secretary for funds.

(2) The partners shall enter into an agreement, in the form of a single document signed by all partners, designating one member of the partnership as the applicant and the grantee. The agreement must also detail the role each partner plans to perform, and must bind each partner to every statement and assurance made in the application. Applications are governed by the EDGAR provisions in 34 CFR 75.127–75.129 regarding group applications.

Deadline for Transmittal of Applications: July 19, 1991.

Deadline for Intergovernmental Review: September 17, 1991.

Available Funds: \$19,250,750.

Estimated Range of Awards: \$50,000–400,000.

Estimated Average Size of Awards: \$275,014.

Estimated Number of Awards: 70.

Note: The Department is not bound by any estimates in this notice.

Project Period: Up to 18 months.

Applicable Regulations: (a) The Education Department General Administrative Regulations (EDGAR) in 34 CFR Part 74 (Administration of Grants to Institutions of Higher Education, Hospitals and Nonprofit Organizations), part 75 (Direct Grant Programs), part 77 (Definitions that Apply to Department Regulations) part 79 (Intergovernmental Review of Department of Education Programs and Activities), part 80 (Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments), part 81 (General Education Provisions Act—Enforcement), part 82 (New Restrictions on Lobbying), part 85 (Government-wide Debarment and Suspension (Nonprocurement) and Government-Wide Requirements for Drug-Free Workplace (Grants), and part 86 (Drug-Free Schools and Campuses) and (b) The regulations for this program in 34 CFR Parts 425, 426 and 432.

Description of Program: The Secretary provides grants or cooperative agreements to projects designed to improve the productivity of the workforce through improvement of literacy skills in the workplace by—

(a) Providing adult literacy and other basic skills services and activities;

(b) Providing adult secondary education services and activities that may lead to the completion of a high school diploma or its equivalent;

(c) Meeting the literacy needs of adults with limited English proficiency;

(d) Upgrading or updating basic skills of adult workers in accordance with changes in workplace requirements, technology, products, or processes;

(e) Improving the competency of adult workers in speaking, listening, reasoning, and problem solving; or

(f) Providing educational counseling, transportation, and child care services for adult workers during nonworking hours while the workers participate in the project.

The Secretary wishes to highlight for potential applicants America 2000: The President's Education Strategy to move the Nation toward the national education goals and educational excellence for all Americans. The National Workplace Literacy Program is one means of transforming America into a "Nation of Students" and strengthening the Nation's education effort for yesterday's students who are today's workers. The President believes that learning is a life-long challenge. Approximately 85 percent of America's

workers for the year 2000 are already in the workforce. Improving schools for today's and tomorrow's students is not sufficient to ensure a competitive America in the year 2000. The President has called on Americans to move from "A Nation at Risk" to "A Nation of Students" by continuing to enhance the knowledge and skills of all Americans.

Invitational Priority

The Secretary is particularly interested in applications that meet the following invitational priority: Projects that propose—

(a) Assessment and evaluation activities including development of qualitative and quantitative tools that measure the attainment or enhancement of job-specific basic skills and such other workplace outcomes as increased employee-readiness for promotions, decreased error rates and reductions in waste, turnover, lost management time and downtime. Applicants may propose alternative or additional workplace outcomes. The Department respects the proprietary nature of the kinds of workplace data collected and is seeking data only on participant gains and not access to raw data; and

(b) A plan of operation that involves workers, whether union or nonunion, in aspects of project planning and implementation such as project design, curriculum development, recruitment, instruction and peer support. For instance, workers may serve on an advisory committee or undertake other project activities in order to meet both worker and employer literacy goals and needs.

However, under 34 CFR 75.105(c)(1) an application that meets this invitational priority does not receive competitive or absolute preference over other applications.

Selection Criteria

The Secretary uses the following selection criteria to evaluate applications for new grants under this competition. The maximum score for all of these criteria is 100 points. The maximum score for each criterion is indicated in parentheses. The Secretary assigns the 15 points, reserved in 34 CFR 432.21(b), as follows: 5 points to selection criterion (a)—Program factors—in 34 CFR 432.22(a) for a total of 20 points for that criterion; 5 points to selection criterion (d)—Plan of Operation—in 34 CFR 432.22(d) for a total of 17 points for that criterion; and 5 points to selection criterion (f)—Evaluation Plan—in 34 CFR 432.22 (f) for a total of 15 points for that criterion.

(a) *Program factors.* (20 points) The Secretary reviews each application to determine the extent to which the project—

(1) Demonstrates a strong relationship between skills taught and the literacy requirements of actual jobs, especially the increased skill requirements of the changing workplace;

(2) Is targeted to adults with inadequate skills for whom the training described is expected to mean new employment, continued employment, career advancement, or increased productivity;

(3) Includes support services, based on cooperative relationships within the partnership and from helping organizations, necessary to reduce barriers to participation by adult workers. Support services could include educational counseling, transportation, and child care during non-working hours while adult workers are participating in a project; and

(4) Demonstrates the active commitment of all partners to accomplishing project goals.

(b) *Extent of need for the project.* (15 points) The Secretary reviews each application to determine the extent to which the project meets specific needs, including consideration of—

(1) The extent to which the project will focus on demonstrated needs for workplace literacy training of adult workers;

(2) The adequacy of the applicant's documentation of the needs to be addressed by the project;

(3) How those needs will be met by the project; and

(4) The benefits to adult workers and their industries that will result from meeting those needs.

(c) *Quality of training.* (15 points) The Secretary reviews each application to determine the quality of the training to be provided by the project, including the extent to which the project will—

(1) Use curriculum materials that are designed for adults and that reflect the needs of the workplace;

(2) Use individualized educational plans developed jointly by instructors and adult learners;

(3) Take place in a readily accessible environment conducive to adult learning; and

(4) Provide training through the partner classified under 34 CFR § 432.2(a)(2), unless transferring this activity to the partner classified under 34 CFR § 432.2(a)(1) is necessary and reasonable within the framework of the project.

(d) *Plan of operation.* (17 points) The Secretary reviews each application to

determine the quality of the plan of operation for the project, including—

(1) The quality of the project design, especially the establishment of measurable objectives for the project that are based on the project's overall goals;

(2) The extent to which the plan of management is effective and ensures proper and efficient administration of the project, and includes—

(i) A description of the respective roles of each member of the partnership in carrying out the plan;

(ii) A description of the activities to be carried out by any contractors under the plan;

(iii) A description of the respective roles, including any cash or in-kind contributions, of helping organizations; and

(iv) A description of the respective roles of any sites;

(3) How well the objectives of the project relate to the purposes of the program;

(4) The quality of the applicant's plan to use its resources and personnel to achieve each objective; and

(5) How the applicant will ensure that project participants, who are otherwise eligible to participate, are selected without regard to race, color, national origin, gender, age, or handicapping condition.

(e) *Applicant's experience and quality of key personnel.* (10 points)

(1) The Secretary reviews each application to determine the extent of the applicant's experience in providing literacy services to working adults.

(2) The Secretary reviews each application to determine the quality of key personnel the applicant plans to use on the project including—

(i) The qualifications, in relation to project requirements, of the project director, if one is to be used;

(ii) The qualifications, in relation to project requirements, of each of the other key personnel to be used in the project;

(iii) The time that each person referred to in paragraphs (e)(2) (i) and (ii) above will commit to the project; and

(iv) How the applicant, as part of its nondiscriminatory employment practices, will ensure that its personnel are selected for employment without regard to race, color, national origin, gender, age, or handicapping condition.

(3) To determine personnel qualifications under paragraphs (e)(2) (i) and (ii) above, the Secretary considers—

(i) Experience and training in fields related to the objectives of the project;

(ii) Experience and training in project management; and

(iii) Any other qualifications that

pertain to the quality of the project.

(f) *Evaluation plan.* (15 points) The Secretary reviews each application to determine the quality of the evaluation plan for the project, including the extent to which the applicant's methods of evaluation—

(1) Are clearly explained and appropriate to the project;

(2) To the extent possible, are objective and produce data that are quantifiable;

(3) Identify expected outcomes of the participants and how those outcomes will be measured;

(4) Include evaluation of effects on job advancement, job performance (including, for example, such elements as productivity, safety and attendance), and job retention; and

(5) Are systematic throughout the project period and provide data that can be used by the project on an ongoing basis for program improvement.

(g) *Budget and cost-effectiveness.* (8 points) The Secretary reviews each application to determine the extent to which—

(1) The budget is adequate to support the project;

(2) Costs are reasonable and necessary in relation to the objectives of the project; and

(3) The applicant has minimized the purchase of equipment and supplies in order to devote a maximum amount of resources to instructional services. (Approved under OMB Control No. 1830-0507)

Additional Factor:

In making awards under this program, the Secretary may consider, in addition to the selection criteria, whether funding a particular applicant would improve the geographical distribution of projects funded under this program. (Authority: 20 U.S.C. 1211(a))

Intergovernmental Review of Federal Programs:

This program is subject to the requirements of Executive Order 12372 (Intergovernmental Review of Federal Programs) and the regulations in 34 CFR part 79.

The objective of the Executive Order is to foster an intergovernmental partnership and to strengthen federalism by relying on State and local processes for State and local government coordination and review of proposed Federal financial assistance.

Applicants must contact the appropriate State Single Point of Contact to find out about, and to comply with, the State's process under Executive Order 12372. Applicants

proposing to perform activities in more than one State should immediately contact the Single Point of Contact for each of those States and follow the procedure established in each State under the Executive Order. If you want to know the name and address of any State Single Point of Contact, see the list published in the *Federal Register* on September 17, 1990, pages 38210-38211.

In States that have not established a process or chosen a program for review, State, areawide, regional, and local entities may submit comments directly to the Department.

Any State Process Recommendation and other comments submitted by a State Single Point of Contact and any comments from State, areawide, regional, and local entities must be mailed or hand-delivered by the date indicated in this notice to the following address: The Secretary, E.O. 12372—CFDA # 84.198, U.S. Department of Education, room 4161, 400 Maryland Avenue, SW., Washington, DC 20202-0125.

Proof of mailing will be determined on the same basis as applications (see 34 CFR 75.102). Recommendations or comments may be hand-delivered until 4:30 p.m. (Washington, DC time) on the date indicated in this notice.

PLEASE NOTE THAT THE ABOVE ADDRESS IS NOT THE SAME ADDRESS AS THE ONE TO WHICH THE APPLICANT SUBMITS ITS COMPLETED APPLICATION. DO NOT SEND APPLICATIONS TO THE ABOVE ADDRESS.

Instructions for Transmittal of Applications:

(a) If an applicant wants to apply for a grant, the applicant shall—

(1) Mail the original and two copies of the application on or before the deadline date to: U.S. Department of Education, Application Control Center, Attention: (CFDA # 84.198), Washington, DC 20202-4725 or (2) Hand deliver the original and two copies of the application by 4:30 p.m. (Washington, DC time) on the deadline date to: U.S. Department of Education, Application Control Center, Attention: (CFDA # 84.198), Room # 3633, Regional Office Building # 3, 7th and D Streets, SW., Washington, DC 20202-4725.

(b) An applicant must show one of the following as proof of mailing:

(1) A legibly dated U.S. Postal Service postmark.

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

(3) A dated shipping label, invoice, or receipt from a commercial carrier.

(4) Any other proof of mailing acceptable to the Secretary.

(c) If an application is mailed through the U.S. Postal Service, the Secretary does not accept either of the following as proof of mailing:

(1) A private metered postmark.

(2) A mail receipt that is not dated by the U.S. Postal Service.

Notes: (1) The U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, an applicant should check with its local post office.

(2) The Application Control Center will mail a Grant Application Receipt Acknowledgement to each applicant. If an applicant fails to receive the notification of application receipt within 15 days from the date of mailing the application, the applicant should call the U.S. Department of Education Application Control Center at (202) 732-2495.

(3) The applicant *must* indicate on the envelope and—if not provided by the Department—in Item 10 of the Application for Federal Assistance (Standard Form 424) the CFDA number of the competition under which the application is being submitted.

Application Instructions and Forms:

The first appendix (appendix A) to this notice is divided into four parts plus a statement regarding estimated public reporting burden and various assurances and certifications. These parts and additional materials are organized in the same manner that the submitted application should be organized. The parts and additional materials are as follows:

Part I: Application for Federal Assistance (Standard Form 424 (Rev. 4-88)) and instructions.

Part II: Budget Information—Non-Construction Programs (Standard Form 424A) and instructions.

Part III: Application Narrative.

Part IV: Partners' Agreement Form.

Additional Materials

Estimated Public Reporting Burden. Assurances—Non-Construction Programs (Standard Form 434B).

Certifications regarding Lobbying; Debarment, Suspension, and Other Responsibility Matters; and Drug-Free Workplace Requirements (ED Form 80-0013) and instructions.

Certification regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion: Lower Tier Covered Transactions (ED Form 80-0014) and instructions. (NOTE: ED Form 80-0014 is intended for the use of grantees and should not be transmitted to the Department).

Disclosure of Lobbying Activities (Standard Form LLL) (if applicable) and instructions, and Disclosure of Lobbying Activities Continuation Sheet (Standard Form LLL-A).

All forms and instructions are included as appendix A of this notice. Questions and answers pertaining to this program are included, as appendix B, to assist potential applicants.

An applicant may submit information on a photostatic copy of the forms in Appendix A. However, each of the pertinent documents must include an original ink signature. All applicants must submit one original signed application, and at least two copies of the signed application. Please mark each application as an original or copy. No grant may be awarded unless a *complete* application form has been received (20 U.S.C. 1241-1391).

FOR FURTHER INFORMATION CONTACT:

Nancy Smith Brooks, Special Programs Branch, Division of National Programs, Office of Vocational and Adult Education, U.S. Department of Education, room 4512-MES, 400 Maryland Avenue SW., Washington, DC 20202-7327. Telephone (202) 732-2269. Or, Sarah Newcomb, Program Services Branch, Division of Adult Education and Literacy, Office of Vocational and Adult Education, U.S. Department of Education, room 4428-MES, 400 Maryland Avenue, SW., Washington, DC 20202-7320. Telephone (202) 732-2390. Deaf and hearing impaired individuals may call the Federal Dual Party Relay Service at 1-800-877-8339 (in Washington, DC 202 area code, telephone 708-9300) between 8 a.m. and 7 p.m., Eastern time.

Authority: 20 U.S.C. 1211(a).

Dated: May 22, 1991.

Betsy Brand,

Assistant Secretary, Office of Vocational and Adult Education.

Appendix A

BILLING CODE 4000-01-M

APPLICATION FOR FEDERAL ASSISTANCE

Previous Editions Not Usable

Standard Form 424 (REV 4-88)
Prescribed by OMB Circular A-102

Authorized for Local Reproduction

INSTRUCTIONS FOR THE SF 424

This is a standard form used by applicants as a required facesheet for preapplications and applications submitted for Federal assistance. It will be used by Federal agencies to obtain applicant certification that States which have established a review and comment procedure in response to Executive Order 12372 and have selected the program to be included in their process, have been given an opportunity to review the applicant's submission.

- | Item: | Entry: | Item: | Entry: |
|-------|--|-------|--|
| 1. | Self-explanatory. | 12. | List only the largest political entities affected (e.g., State, counties, cities). |
| 2. | Date application submitted to Federal agency (or State if applicable) & applicant's control number (if applicable). | 13. | Self-explanatory. |
| 3. | State use only (if applicable). | 14. | List the applicant's Congressional District and any District(s) affected by the program or project. |
| 4. | If this application is to continue or revise an existing award, enter present Federal identifier number. If for a new project, leave blank. | 15. | Amount requested or to be contributed during the first funding/budget period by each contributor. Value of in-kind contributions should be included on appropriate lines as applicable. If the action will result in a dollar change to an existing award, indicate <i>only</i> the amount of the change. For decreases, enclose the amounts in parentheses. If both basic and supplemental amounts are included, show breakdown on an attached sheet. For multiple program funding, use totals and show breakdown using same categories as item 15. |
| 5. | Legal name of applicant, name of primary organizational unit which will undertake the assistance activity, complete address of the applicant, and name and telephone number of the person to contact on matters related to this application. | 16. | Applicants should contact the State Single Point of Contact (SPOC) for Federal Executive Order 12372 to determine whether the application is subject to the State intergovernmental review process. |
| 6. | Enter Employer Identification Number (EIN) as assigned by the Internal Revenue Service. | 17. | This question applies to the applicant organization, not the person who signs as the authorized representative. Categories of debt include delinquent audit disallowances, loans and taxes. |
| 7. | Enter the appropriate letter in the space provided. | 18. | To be signed by the authorized representative of the applicant. A copy of the governing body's authorization for you to sign this application as official representative must be on file in the applicant's office. (Certain Federal agencies may require that this authorization be submitted as part of the application.) |
| 8. | Check appropriate box and enter appropriate letter(s) in the space(s) provided:
— "New" means a new assistance award.
— "Continuation" means an extension for an additional funding/budget period for a project with a projected completion date.
— "Revision" means any change in the Federal Government's financial obligation or contingent liability from an existing obligation. | | |
| 9. | Name of Federal agency from which assistance is being requested with this application. | | |
| 10. | Use the Catalog of Federal Domestic Assistance number and title of the program under which assistance is requested. | | |
| 11. | Enter a brief descriptive title of the project. If more than one program is involved, you should append an explanation on a separate sheet. If appropriate (e.g., construction or real property projects), attach a map showing project location. For preapplications, use a separate sheet to provide a summary description of this project. | | |

OMB Approval No. 0348-0044

BUDGET INFORMATION — Non-Construction Programs

SECTION A — BUDGET SUMMARY						
Grant Program Function or Activity (a)	Catalog of Federal Domestic Assistance Number (b)	Estimated Unobligated Funds		New or Revised Budget		
		Federal (c)	Non-Federal (d)	Federal (e)	Non-Federal (f)	Total (g)
1. Workplace	84.198	\$	\$	\$	\$	\$
2.						
3.						
4.						
5. TOTALS		\$	\$	\$	\$	\$

SECTION B — BUDGET CATEGORIES						
Object Class Categories	GRANT PROGRAM, FUNCTION OR ACTIVITY					Total (5)
	(1)	(2)	(3)	(4)	(5)	
a. Personnel	\$	\$	\$	\$	\$	\$
b. Fringe Benefits						
c. Travel						
d. Equipment						
e. Supplies						
f. Contractual						
g. Construction						
h. Other						
i. Total Direct Charges (sum of 6a - 6h)						
j. Indirect Charges						
k. TOTALS (sum of 6i and 6j)	\$	\$	\$	\$	\$	\$
7. Program Income	\$	\$	\$	\$	\$	\$

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Standard Form 424A (4-88)
Prescribed by OMB Circular A-102

SECTION C - NON-FEDERAL RESOURCES					
(a) Grant Program	(b) Applicant	(c) State	(d) Other Sources	(e) TOTALS	
8. National Workplace Literacy Program	\$	\$	\$	\$	\$
9.					
10.					
11.					
12. TOTALS (sum of lines 8 and 11)	\$	\$	\$	\$	\$

SECTION D - FORECASTED CASH NEEDS				
Total for 1st Year	1st Quarter	2nd Quarter	3rd Quarter	4th Quarter
13. Federal	\$	\$	\$	\$
14. Nonfederal	\$	\$	\$	\$
15. TOTAL (sum of lines 13 and 14)	\$	\$	\$	\$

SECTION E - BUDGET ESTIMATES OF FEDERAL FUNDS NEEDED FOR BALANCE OF THE PROJECT				
(a) Grant Program	FUTURE FUNDING PERIODS (Years)			
	(b) First	(c) Second	(d) Third	(e) Fourth
16.	\$	\$	\$	\$
17.				
18.				
19.				
20. TOTALS (sum of lines 16-19)	\$	\$	\$	\$

SECTION F - OTHER BUDGET INFORMATION (Attach additional sheets if necessary)	
21. Direct Charges:	22. Indirect Charges:
23. Remarks	

Part II—Budget Information**Instructions for the SF-424A****General Instructions**

This form is designed so that application can be made for funds from any one of the grant programs funded by the U.S. Department of Education. For the National Workplace Literacy Program (CFDA No. 84.198) sections A, B, and C should include budget estimates for the entire project period.

Note: Sections D and E need not be completed to apply for this program.

All applications should contain a breakdown by the object class categories shown in section B, Lines 6a through 6j.

Section A. Budget Summary

Line 1. Columns (a) through (g)—Enter on Line 1 the catalog program title in Column (a) and the catalog program number in column (b). Leave Columns (c) and (d) blank. Enter in Columns (e), (f) and (g), the appropriate amounts of funds needed to support the project for the entire project period.

Section B. Budget Categories

Lines 6a through 6i—Fill in the total requirements for Federal funds by object class categories for the entire project period. Line 6a—Personnel: Show salaries and wages to be paid to personnel employed in the project. Fees and expenses for consultants must be included in Line 6f.

Line 6b—Fringe Benefits: include contributions for Social Security, employee insurance, pension plans, etc. Leave blank if fringe benefits to personnel are treated as part of the indirect cost rate.

Line 6c—Travel: Indicate the amount requested for travel of employees.

Line 6d—Equipment: Indicate the cost of nonexpendable personal property which has a useful life of more than two years and an acquisition cost of \$5000 or more per unit.

Line 6e—Supplies: Include the cost of consumable supplies to be used in this project. These should be items which cost less than \$5000 per unit with a useful life of less than two years.

Line 6f—Contractual: Show the amount to be used for: (a) Procurement contracts (except those which belong on other lines such as supplies and equipment listed above); and (b) payments for consultants.

Line 6g—Construction: Construction expenses are not allowable under the National Workplace Literacy Program (CFDA No. 84.198).

Line 6h—Other: Indicate all direct costs not clearly covered by Lines 6a through 6g. Trainee costs or stipends are not allowable.

Line 6i—Total Direct Charges: Show total of Lines 6a through 6h.

Line 6j—Show the amount of indirect cost to be charged to the project.

Line 6k—Enter the total of the amounts on Lines 6i and 6j.

Section C. Non-Federal Resources

Note: Cost sharing is required by program regulations. The local share required refers to a percentage of total project cost, not Federal funds.

Line 8—Enter any amounts of non-Federal resources that will be used on the grant. Contributions may be in the form of cash or in-kind contributions. If any in-kind contributions are included, provide a brief explanation of each contribution on a separate sheet.

Column (b)—Enter the contribution to be made by the applicant. For purposes of column (b), the applicant includes all partners and not merely the applicant designated by the Partners' Agreement Form and on the SF 424. If a partner is a State agency, that partner's contribution should be included in column (b), rather than in column (c).

Column (c)—Enter the amount of the cash and in-kind contributions of any State agency that is not a partner. State agencies (that are partners) should list their (contributions in column (b).)

Column (d)—Enter the amount of cash and in-kind contributions to be made from all other sources.

Column (e)—Enter the totals of Columns (b), (c), and (d).

Note: If an SEA or LEA is designated as the grantee for a partnership, the grantee may receive 100 percent of its necessary and reasonable administrative costs incurred in establishing a project during a start-up period. Federal funds may provide no more than 70 percent of any other costs in a project; these include a cost incurred during a project's operational period by partnerships where an SEA or LEA is the designated grantee and costs incurred in both a project's start-up and operational periods by a partnership where an entity other than an SEA or LEA is the designated grantee. This means that the amount shown on Line 8, Column (e), must be at least 30 percent of the amount shown in Section A, line 1, column (g), unless the first amount is smaller than 30 percent because an SEA or LEA is the designated grantee.

Section E. Budget Estimates of Federal Funds Needed for Balance of the Project

Note: This section does not apply to the National Workplace Literacy Program.

Section F. Other Budget Information

Prepare a detailed Budget Narrative that explains, justifies, and/or clarifies the budget figures shown in section A, B, and C. Explain:

1. The basis used to estimate certain costs (professional personnel), consultants, travel, indirect costs and any other cost that may appear unusual;
2. How the major cost items relate to the proposed project activities;
3. The costs of the project's evaluation component;
4. What matching occurs in each budget category; and
5. For State or local education agencies claiming 100 percent Federal funding for administrative costs incurred in establishing a project during a start-up period, not to exceed 90 days, provide a breakdown of expenditures in the start-up period and in the subsequent operational period. Organizations claiming 100 percent Federal funding during start-up must meet the definition of "LEA" and "SEA" contained in section 312(5) or section 312(8) of the Adult Education Act, as amended by title II, part B of Public Law 100-297.

Instructions for Part III—Application Narrative

Before preparing the Application Narrative, an applicant should read carefully the description of the program, the information regarding the invitational priority, and the selection criteria the Secretary uses to evaluate applications.

The narrative should encompass each function or activity for which funds are being requested and should—

1. Begin with an Abstract; that is, a summary of the proposed project;
2. Describe the proposed project in light of each of the selection criteria in the order in which the criteria are listed in this application package; and
3. Include any other pertinent information that might assist the Secretary in reviewing the application.

The Secretary strongly requests the applicant to limit the Application Narrative to no more than 30 double-spaced, typed, 8½"x11" pages (on one side only), although the Secretary will consider applications of greater length. Be sure that each page of your application is numbered consecutively.

Include as an appendix to the Application Narrative supporting documentation, also on 8½"x11" paper, (e.g., letters of support, footnotes, resumes, etc.) or any other pertinent information that might assist the Secretary in reviewing the application.

Applicants are advised that:

(1) Under 34 CFR 75.217 of the Education Department General Administrative Regulations (EDGAR), the Department considers only information contained in the application in ranking applications for funding consideration. Letters of support sent separately from the formal application package are not considered in the review by the technical review panels.

(2) In reviewing applications, the technical review panel evaluates each application solely on the basis of the established technical review criteria. Letters of support contained in the application will strengthen the application only insofar as they contain commitments which pertain to the established technical review criteria, such as commitment of resources and placement of successful completers.

Include any other pertinent information that might assist the

Secretary in reviewing the application under the Adult Education Act, as amended by title II, part B of Pub. L. 100-297.

Instructions for Part IV—Partners' Agreement Form

Partners must submit a signed Partners' Agreement Form and enclose it with the application. Under 34 CFR 432.2, it is essential that the partners sign and submit this document in order for their application to be considered complete. If the document is not signed by *all* partners and submitted with the application, the Secretary will return the application without further consideration for funding pursuant to 34 CFR 75.216.

Instructions for estimated public reporting burden

Under terms of the Paperwork Reduction Act of 1980, as amended, and

the regulations implementing that Act, the Department of Education invites comment on the public reporting burden in this collection of information. Public reporting burden for this collection of information is estimated to average 20 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. You may send comments regarding this burden to the U.S. Department of Education, Information Management and Compliance Division, Washington, DC 20202-4651; and to the Office of Management and Budget, Paperwork Reduction Project, OMB 1830-0507, Washington, DC 20503. (Information collection approved under OMB control number 1830-0507. Expiration date 12/31/91).

BILLING CODE 4000-01-M

PART IV - PARTNERSHIP AGREEMENT FORM

INSTRUCTIONS: Partners must submit a signed Partners' Agreement form and enclose it with the application. Under 34 CFR 4322 it is essential that the partners sign and submit this document in order for their application to be considered complete. If the document is not signed by all partners and submitted with the application, the Secretary will return the application without further consideration for funding pursuant to 34 CFR 75.216.

Please note that every partnership must include at least one entity from each of the following two categories and may, but need not, include more than one entity from each category. Category 1 includes a business, industry, or labor organization, or private industry council. Category 2 includes a State educational agency, local educational agency, or school (including an area vocational school, and employment and training agency, or a community-based organization). This means that the Partnership Agreement must be signed by at least one Category 1 partner and at least one Category 2 partner and must also be signed by any other partner(s) included in the partnership. Any questions about forming a valid partnership and properly completing the Partnership Agreement may be referred to one of the program officers listed as an information contact in this application notice.

Partners' Agreement

As authorized representatives of our organizations, we agree on their behalf to the following terms with respect to our application number _____ as a condition of applying for and receiving a grant from the National Workplace Literacy Program. We:

- designate partner _____ as the applicant on behalf of the partnership;
- are willing to be partners in this project;
- will perform the role detailed for each of us in the application;
- will be bound by every statement and assurance made in the application including, but not limited to, the assurance that any funds provided to the partnership under Section 371 of Public Law 100-297 will be used to supplement and not supplant funds otherwise available for the purposes of the National Workplace Literacy Program.

Category One Partner

Category Two Partner

Original Ink Signature_____
Original Ink Signature_____
Name (Typed)_____
Name (Typed)_____
Title (Typed)_____
Title (Typed)_____
Organization (Typed)_____
Organization (Typed)_____
Date (Typed)_____
Date (Typed)

Note: Applicant must add signature spaces including the above information for any additional partner(s).

ASSURANCES — CONSTRUCTION PROGRAMS

Note: Certain of these assurances may not be applicable to your project or program. If you have questions, please contact the Awarding Agency. Further, certain federal assistance awarding agencies may require applicants to certify to additional assurances. If such is the case, you will be notified.

As the duly authorized representative of the applicant I certify that the applicant:

1. Has the legal authority to apply for Federal assistance, and the institutional, managerial and financial capability (including funds sufficient to pay the non-Federal share of project costs) to ensure proper planning, management and completion of the project described in this application.
2. Will give the awarding agency, the Comptroller General of the United States, and if appropriate, the State, through any authorized representative, access to and the right to examine all records, books, papers, or documents related to the assistance; and will establish a proper accounting system in accordance with generally accepted accounting standards or agency directives.
3. Will not dispose of, modify the use of, or change the terms of the real property title, or other interest in the site and facilities without permission and instructions from the awarding agency. Will record the Federal interest in the title of real property in accordance with awarding agency directives and will include a covenant in the title of real property acquired in whole or in part with Federal assistance funds to assure nondiscrimination during the useful life of the project.
4. Will comply with the requirements of the assistance awarding agency with regard to the drafting, review and approval of construction plans and specifications.
5. Will provide and maintain competent and adequate engineering supervision at the construction site to ensure that the complete work conforms with the approved plans and specifications and will furnish progress reports and such other information as may be required by the assistance awarding agency or State.
6. Will initiate and complete the work within the applicable time frame after receipt of approval of the awarding agency.
7. Will establish safeguards to prohibit employees from using their positions for a purpose that constitutes or presents the appearance of personal or organizational conflict of interest, or personal gain.
8. Will comply with the Intergovernmental Personnel Act of 1970 (42 U.S.C. §§ 4728-4763) relating to prescribed standards for merit systems for programs funded under one of the nineteen statutes or regulations specified in Appendix A of OPM's Standards for a Merit System of Personnel Administration (5 C.F.R. 900, Subpart F).
9. Will comply with the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. §§ 4801 et seq.) which prohibits the use of lead based paint in construction or rehabilitation of residence structures.
10. Will comply with all Federal statutes relating to non-discrimination. These include but are not limited to: (a) Title VI of the Civil Rights Act of 1964 (P.L. 88-352) which prohibits discrimination on the basis of race, color or national origin; (b) Title IX of the Education Amendments of 1972, as amended (20 U.S.C. §§ 1681-1683, and 1685-1686) which prohibits discrimination on the basis of sex; (c) Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. § 794) which prohibit discrimination on the basis of handicaps; (d) the Age Discrimination Act of 1975, as amended (42 U.S.C. §§ 6101-6107) which prohibits discrimination on the basis of age; (e) the Drug Abuse Office and Treatment Act of 1972 (P.L. 93-255), as amended, relating to non-discrimination on the basis of drug abuse; (f) the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970 (P.L. 91-616), as amended, relating to nondiscrimination on the basis of alcohol abuse or alcoholism; (g) §§ 523 and 527 of the Public Health Service Act of 1912 (42 U.S.C. 290 dd-3 and 290 ee-3), as amended, relating to confidentiality of alcohol and drug abuse patient records; (h) Title VIII of the Civil Rights Act of 1968 (42 U.S.C. § 3601 et seq.), as amended, relating to non-discrimination in the sale, rental or financing of housing; (i) any other non-discrimination provisions in the specific statute(s) under which application for Federal assistance is being made, and (j) the requirements on any other non-discrimination Statute(s) which may apply to the application.

10. Will comply, if applicable, with flood insurance purchase requirements of Section 102(a) of the Flood Disaster Protection Act of 1973 (P.L. 93-234) which requires recipients in a special flood hazard area to participate in the program and to purchase flood insurance if the total cost of insurable construction and acquisition is \$10,000 or more.
11. Will comply with environmental standards which may be prescribed pursuant to the following: (a) institution of environmental quality control measures under the National Environmental Policy Act of 1969 (P.L. 91-190) and Executive Order (EO) 11514; (b) notification of violating facilities pursuant to EO 11738; (c) protection of wetlands pursuant to EO 11990; (d) evaluation of flood hazards in floodplains in accordance with EO 11988; (e) assurance of project consistency with the approved State management program developed under the Coastal Zone Management Act of 1972 (16 U.S.C. §§ 1451 et seq.); (f) conformity of Federal actions to State (Clear Air) Implementation Plans under Section 176(c) of the Clear Air Act of 1955, as amended (42 U.S.C. § 7401 et seq.); (g) protection of underground sources of drinking water under the Safe Drinking Water Act of 1974, as amended, (P.L. 93-523); and (h) protection of endangered species under the Endangered Species Act of 1973, as amended, (P.L. 93-205).
12. Will comply with the Wild and Scenic Rivers Act of 1968 (16 U.S.C. §§ 1271 et seq.) related to protecting components or potential components of the national wild and scenic rivers system.
13. Will assist the awarding agency in assuring compliance with Section 106 of the National Historic Preservation Act of 1966, as amended (16 U.S.C. 470), EO 11593 (identification and protection of historic properties), and the Archaeological and Historic Preservation Act of 1974 (16 U.S.C. 469a-1 et seq.).
14. Will comply with P.L. 93-348 regarding the protection of human subjects involved in research, development, and related activities supported by this award of assistance.
15. Will comply with the Laboratory Animal Welfare Act of 1966 (P.L. 89-544, as amended, 7 U.S.C. 2131 et seq.) pertaining to the care, handling, and treatment of warm blooded animals held for research, teaching, or other activities supported by this award of assistance.
16. Will comply with the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. §§ 4801 et seq.) which prohibits the use of lead based paint in construction or rehabilitation of residence structures.
17. Will cause to be performed the required financial and compliance audits in accordance with the Single Audit Act of 1984.
18. Will comply with all applicable requirements of all other Federal laws, executive orders, regulations and policies governing this program.

SIGNATURE OF AUTHORIZED CERTIFYING OFFICIAL	TITLE	
APPLICANT ORGANIZATION		DATE SUBMITTED

CERTIFICATIONS REGARDING LOBBYING; DEBARMENT, SUSPENSION AND OTHER RESPONSIBILITY MATTERS; AND DRUG-FREE WORKPLACE REQUIREMENTS

Applicants should refer to the regulations cited below to determine the certification to which they are required to attest. Applicants should also review the instructions for certification included in the regulations before completing this form. Signature of this form provides for compliance with certification requirements under 34 CFR Part 82, "New Restrictions on Lobbying," and 34 CFR Part 85, "Government-wide Debarment and Suspension (Nonprocurement) and Government-wide Requirements for Drug-Free Workplace (Grants)." The certifications shall be treated as a material representation of fact upon which reliance will be placed when the Department of Education determines to award the covered transaction, grant, or cooperative agreement.

1. LOBBYING

As required by Section 1352, Title 31 of the U.S. Code, and implemented at 34 CFR Part 82, for persons entering into a grant or cooperative agreement over \$100,000, as defined at 34 CFR Part 82, Sections 82.105 and 82.110, the applicant certifies that:

- (a) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the making of any Federal grant, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal grant or cooperative agreement;
- (b) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal grant or cooperative agreement, the undersigned shall complete and submit Standard Form - LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions;
- (c) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subgrants, contracts under grants and cooperative agreements, and subcontracts) and that all subrecipients shall certify and disclose accordingly.

2. DEBARMENT, SUSPENSION, AND OTHER RESPONSIBILITY MATTERS

As required by Executive Order 12549, Debarment and Suspension, and implemented at 34 CFR Part 85, for prospective participants in primary covered transactions, as defined at 34 CFR Part 85, Sections 85.105 and 85.110 -

A. The applicant certifies that it and its principals:

- (a) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency;
- (b) Have not within a three-year period preceding this application been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State, or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
- (c) Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State, or local) with commission of any of the offenses enumerated in paragraph (1)(b) of this certification; and

(d) Have not within a three-year period preceding this application had one or more public transactions (Federal, State, or local) terminated for cause or default; and

B. Where the applicant is unable to certify to any of the statements in this certification, he or she shall attach an explanation to this application.

3. DRUG-FREE WORKPLACE (GRANTEES OTHER THAN INDIVIDUALS)

As required by the Drug-Free Workplace Act of 1988, and implemented at 34 CFR Part 85, Subpart F, for grantees, as defined at 34 CFR Part 85, Sections 85.605 and 85.610 -

A. The applicant certifies that it will or will continue to provide a drug-free workplace by:

- (a) Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the grantee's workplace and specifying the actions that will be taken against employees for violation of such prohibition;
- (b) Establishing an on-going drug-free awareness program to inform employees about--
 - (1) The dangers of drug abuse in the workplace;
 - (2) The grantee's policy of maintaining a drug-free workplace;
 - (3) Any available drug counseling, rehabilitation, and employee assistance programs; and
 - (4) The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace;
- (c) Making it a requirement that each employee to be engaged in the performance of the grant be given a copy of the statement required by paragraph (a);
- (d) Notifying the employee in the statement required by paragraph (a) that, as a condition of employment under the grant, the employee will--
 - (1) Abide by the terms of the statement; and
 - (2) Notify the employer in writing of his or her conviction for a violation of a criminal drug statute occurring in the workplace no later than five calendar days after such conviction;
- (e) Notifying the agency, in writing, within 10 calendar days after receiving notice under subparagraph (d)(2) from an employee or otherwise receiving actual notice of such conviction. Employers of convicted employees must provide notice, including position title, to: Director, Grants and Contracts Service, U.S. Department of Education, 400 Maryland Avenue, S.W. (Room 3124, GSA Regional Office

Building No. 3), Washington, DC 20202-4571. Notice shall include the identification number(s) of each affected grant;

(f) Taking one of the following actions, within 30 calendar days of receiving notice under subparagraph (d)(2), with respect to any employee who is so convicted—

(1) Taking appropriate personnel action against such an employee, up to and including termination, consistent with the requirements of the Rehabilitation Act of 1973, as amended; or

(2) Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State, or local health, law enforcement, or other appropriate agency;

(g) Making a good faith effort to continue to maintain a drug-free workplace through implementation of paragraphs (a), (b), (c), (d), (e), and (f).

B. The grantee may insert in the space provided below the site(s) for the performance of work done in connection with the specific grant:

Place of Performance (Street address, city, county, state, zip code)

Check ☐ if there are workplaces on file that are not identified here.

DRUG-FREE WORKPLACE (GRANTEES WHO ARE INDIVIDUALS)

As required by the Drug-Free Workplace Act of 1988, and implemented at 34 CFR Part 85, Subpart F, for grantees, as defined at 34 CFR Part 85, Sections 85.605 and 85.610 —

A. As a condition of the grant, I certify that I will not engage in the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance in conducting any activity with the grant; and

B. If convicted of a criminal drug offense resulting from a violation occurring during the conduct of any grant activity, I will report the conviction, in writing, within 10 calendar days of the conviction, to: Director, Grants and Contracts Service, U.S. Department of Education, 400 Maryland Avenue, S.W. (Room 3124, GSA Regional Office Building No. 3), Washington, DC 20202-4571. Notice shall include the identification number(s) of each affected grant.

As the duly authorized representative of the applicant, I hereby certify that the applicant will comply with the above certifications.

NAME OF APPLICANT	PR/AWARD NUMBER AND/OR PROJECT NAME
PRINTED NAME AND TITLE OF AUTHORIZED REPRESENTATIVE	
SIGNATURE	DATE

Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion – Lower Tier Covered Transactions

This certification is required by the Department of Education regulations implementing Executive Order 12549, Debarment and Suspension, 34 CFR Part 85, for all lower tier transactions meeting the threshold and tier requirements stated at Section 85.110.

Instructions for Certification

1. By signing and submitting this proposal, the prospective lower tier participant is providing the certification set out below.
2. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.
3. The prospective lower tier participant shall provide immediate written notice to the person to which this proposal is submitted if at any time the prospective lower tier participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.
4. The terms "covered transaction," "debarred," "suspended," "ineligible," "lower tier covered transaction," "participant," "person," "primary covered transaction," "principal," "proposal," and "voluntarily excluded," as used in this clause, have the meanings set out in the Definitions and Coverage sections of rules implementing Executive Order 12549. You may contact the person to which this proposal is submitted for assistance in obtaining a copy of those regulations.
5. The prospective lower tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated.
6. The prospective lower tier participant further agrees by submitting this proposal that it will include the clause titled "Certification Regarding Debarment, Suspension, Ineligibility, and Voluntary Exclusion—Lower Tier Covered Transactions," without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.
7. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the Nonprocurement List.
8. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.
9. Except for transactions authorized under paragraph 5 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

Certification

- (1) The prospective lower tier participant certifies, by submission of this proposal, that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.
- (2) Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

NAME OF APPLICANT	PR/AWARD NUMBER AND/OR PROJECT NAME
PRINTED NAME AND TITLE OF AUTHORIZED REPRESENTATIVE	
SIGNATURE	DATE

DISCLOSURE OF LOBBYING ACTIVITIESComplete this form to disclose lobbying activities pursuant to 31 U.S.C. 1352
(See reverse for public burden disclosure.)Approved by OMB
0348-0046

1. Type of Federal Action: <input type="checkbox"/> a. contract <input type="checkbox"/> b. grant <input type="checkbox"/> c. cooperative agreement <input type="checkbox"/> d. loan <input type="checkbox"/> e. loan guarantee <input type="checkbox"/> f. loan insurance	2. Status of Federal Action: <input type="checkbox"/> a. bid/offer/application <input type="checkbox"/> b. initial award <input type="checkbox"/> c. post-award	3. Report Type: <input type="checkbox"/> a. initial filing <input type="checkbox"/> b. material change For Material Change Only: year _____ quarter _____ date of last report _____
4. Name and Address of Reporting Entity: <input type="checkbox"/> Prime <input type="checkbox"/> Subawardee Tier _____, if known: Congressional District, if known: _____		5. If Reporting Entity in No. 4 is Subawardee, Enter Name and Address of Prime: Congressional District, if known: _____
6. Federal Department/Agency:		7. Federal Program Name/Description: CFDA Number, if applicable: _____
8. Federal Action Number, if known:		9. Award Amount, if known: \$ _____
10. a. Name and Address of Lobbying Entity (if individual, last name, first name, MI):		b. Individuals Performing Services (including address if different from No. 10a) (last name, first name, MI):
(attach Continuation Sheet(s) SF-LLL-A, if necessary)		
11. Amount of Payment (check all that apply): \$ _____ <input type="checkbox"/> actual <input type="checkbox"/> planned		13. Type of Payment (check all that apply): <input type="checkbox"/> a. retainer <input type="checkbox"/> b. one-time fee <input type="checkbox"/> c. commission <input type="checkbox"/> d. contingent fee <input type="checkbox"/> e. deferred <input type="checkbox"/> f. other; specify: _____
12. Form of Payment (check all that apply): <input type="checkbox"/> a. cash <input type="checkbox"/> b. in-kind; specify: nature _____ value _____		
14. Brief Description of Services Performed or to be Performed and Date(s) of Service, including officer(s), employee(s), or Member(s) contacted, for Payment Indicated in Item 11: (attach Continuation Sheet(s) SF-LLL-A, if necessary)		
15. Continuation Sheet(s) SF-LLL-A attached: <input type="checkbox"/> Yes <input type="checkbox"/> No		
16. Information requested through this form is authorized by title 31 U.S.C. section 1352. This disclosure of lobbying activities is a material representation of fact upon which reliance was placed by the tier above when this transaction was made or entered into. This disclosure is required pursuant to 31 U.S.C. 1352. This information will be reported to the Congress semi-annually and will be available for public inspection. Any person who fails to file the required disclosure shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.		Signature: _____ Print Name: _____ Title: _____ Telephone No.: _____ Date: _____
Federal Use Only:		Authorized for Local Reproduction Standard Form - LLL

INSTRUCTIONS FOR COMPLETION OF SF-LLL, DISCLOSURE OF LOBBYING ACTIVITIES

This disclosure form shall be completed by the reporting entity, whether subawardee or prime Federal recipient, at the initiation or receipt of a covered Federal action, or a material change to a previous filing, pursuant to title 31 U.S.C. section 1352. The filing of a form is required for each payment or agreement to make payment to any lobbying entity for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with a covered Federal action. Use the SF-LLL-A Continuation Sheet for additional information if the space on the form is inadequate. Complete all items that apply for both the initial filing and material change report. Refer to the implementing guidance published by the Office of Management and Budget for additional information.

1. Identify the type of covered Federal action for which lobbying activity is and/or has been secured to influence the outcome of a covered Federal action.
2. Identify the status of the covered Federal action.
3. Identify the appropriate classification of this report. If this is a followup report caused by a material change to the information previously reported, enter the year and quarter in which the change occurred. Enter the date of the last previously submitted report by this reporting entity for this covered Federal action.
4. Enter the full name, address, city, state and zip code of the reporting entity. Include Congressional District, if known. Check the appropriate classification of the reporting entity that designates if it is, or expects to be, a prime or subaward recipient. Identify the tier of the subawardee, e.g., the first subawardee of the prime is the 1st tier. Subawards include but are not limited to subcontracts, subgrants and contract awards under grants.
5. If the organization filing the report in item 4 checks "Subawardee", then enter the full name, address, city, state and zip code of the prime Federal recipient. Include Congressional District, if known.
6. Enter the name of the Federal agency making the award or loan commitment. Include at least one organizational level below agency name, if known. For example, Department of Transportation, United States Coast Guard.
7. Enter the Federal program name or description for the covered Federal action (item 1). If known, enter the full Catalog of Federal Domestic Assistance (CFDA) number for grants, cooperative agreements, loans, and loan commitments.
8. Enter the most appropriate Federal identifying number available for the Federal action identified in item 1 (e.g., Request for Proposal (RFP) number; Invitation for Bid (IFB) number; grant announcement number; the contract, grant, or loan award number; the application/proposal control number assigned by the Federal agency). Include prefixes, e.g., "RFP-DE-90-001."
9. For a covered Federal action where there has been an award or loan commitment by the Federal agency, enter the Federal amount of the award/loan commitment for the prime entity identified in item 4 or 5.
10. (a) Enter the full name, address, city, state and zip code of the lobbying entity engaged by the reporting entity identified in item 4 to influence the covered Federal action.
(b) Enter the full names of the individual(s) performing services, and include full address if different from 10 (a). Enter Last Name, First Name, and Middle Initial (MI).
11. Enter the amount of compensation paid or reasonably expected to be paid by the reporting entity (item 4) to the lobbying entity (item 10). Indicate whether the payment has been made (actual) or will be made (planned). Check all boxes that apply. If this is a material change report, enter the cumulative amount of payment made or planned to be made.
12. Check the appropriate box(es). Check all boxes that apply. If payment is made through an in-kind contribution, specify the nature and value of the in-kind payment.
13. Check the appropriate box(es). Check all boxes that apply. If other, specify nature.
14. Provide a specific and detailed description of the services that the lobbyist has performed, or will be expected to perform, and the date(s) of any services rendered. Include all preparatory and related activity, not just time spent in actual contact with Federal officials. Identify the Federal official(s) or employee(s) contacted or the officer(s), employee(s), or Member(s) of Congress that were contacted.
15. Check whether or not a SF-LLL-A Continuation Sheet(s) is attached.
16. The certifying official shall sign and date the form, print his/her name, title, and telephone number.

Public reporting burden for this collection of information is estimated to average 30 minutes per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Office of Management and Budget, Paperwork Reduction Project (0348-0046), Washington, D.C. 20503.

DISCLOSURE OF LOBBYING ACTIVITIES CONTINUATION SHEET

Approved by OMB
0348-0046

Reporting Entity: _____

Page _____ of _____

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Standard Form - LLL-A

BILLING CODE 4000-01-C

Appendix B

Potential applicants frequently direct questions to officials of the Department regarding application notices and programmatic and administrative regulations governing various direct grant programs. To assist potential applicants the Department has assembled the following most commonly asked questions.

Q. Can we get an extension of the deadline?

A. No. A closing date may be changed only under extraordinary circumstances. Any change must be announced in the *Federal Register* and apply to all applications. Waivers for individual applications *cannot* be granted, regardless of the circumstances.

Q. We just missed the deadline for a previous Department of Education competition. May we submit the application we prepared for it under this competition?

A. Yes. However the likelihood of success is not good. A properly prepared application must meet the specifications of the competition to which it is submitted.

Q. I'm not sure which competition is most appropriate for my project. What should I do?

A. We are happy to discuss any questions with you and provide clarification on the unique elements of the various competitions.

Q. How can I best ensure that my application is received on time and is considered under the correct competition?

A. Applicants should carefully follow the instructions for filing applications that are set forth in this notice. Be sure to clearly indicate in Block 10 of the face page of their application (Standard form 424) the CFDA number—84.198—and the title of the program—National Workplace Literacy Program—representing the competition in which the application should be considered.

Q. Will you help us prepare our application?

A. We are happy to provide general program information. Clearly, it would not be appropriate for staff to participate in the actual writing of an application, but we can respond to specific questions about application requirements, evaluation criteria, and the priority. Applicants should understand that this previous contact is not required, nor will it in any way influence the success of an application.

Q. How long should an application be?

A. The Department of Education is making a concerted effort to reduce the volume of paperwork in discretionary

program applications. However, the scope and complexity of projects is too variable to establish firm limits on length. Your application should provide enough information to allow the review panel to evaluate the significance of the project against the criteria of the competition. We recommend that you address all of the selection criteria in an "Application Narrative" of no more than thirty pages in length. Supporting documentation may be included in appendices to the Application Narrative. Some examples:

(1) Staff qualifications. These should be brief. They should include the person's title and role in the proposed project and contain only information about his or her qualifications that are relevant to the proposed project. Qualifications of consultants should be provided and be similarly brief. Resumes may be included in the appendices.

(2) Copies of evaluation instruments proposed to be used in the project in instances where such instruments are not in general use.

Note that a Budget Narrative describing specific uses of funds requested in the budget form also is required. No applications will be funded without this material. The Budget Narrative is not included in the thirty pages recommended. It may consist of two or three additional pages.

Q. How should my application be organized?

A. The Secretary strongly requests that the application be assembled with the SF 424 on top, followed by the abstract, Partners' Agreement Form, table of contents, SF 424A budget forms, application narrative, assurances and certifications, and appendices. Do not substitute your own cover for the SF 424. Please include one extra, loose copy of the SF 424 for use by the Application Control Center. Please number all pages. The application narrative should be organized to follow the exact sequence of the components in the selection criteria in this notice.

Q. Is travel allowable using project funds?

A. Travel associated with carrying out the project is allowed if necessary and reasonable. The Secretary anticipates that the project director may be asked to attend two staff development meetings. Therefore, you may wish to include the costs of two trips to Washington, DC in the travel budget.

Q. How can I ensure that my application is filed on behalf of a validly formed partnership?

A. The requirements for forming a partnership and filing an application on its behalf are explained in Sec. 432.2 of

the program regulations. A partnership requires a signed agreement between at least one entity described in Sec. 432.2(a)(1) and at least one entity described in Sec. 432.2(a)(2). Note that State and local governments—like any other entities—may not qualify as partners unless they fall within these descriptions. For example, under the regulations a State or local educational agency or a municipal employment and training agency is an eligible partner, but a State or city as such is not an eligible partner. No agency of the Federal government is an eligible partner. Federal employees including members of the armed services are not eligible for training. If you are not sure whether a particular entity is an eligible partner, please call one of the program officers listed as an information the application notice.

Q. Must the signed partnership agreement be submitted with the application?

A. Yes. The agreement is required both to establish the partnership's legal eligibility and to ensure each partner's continuing commitment during the workplace literacy project. Prior to submitting an application, partners should ensure that each partner clearly understands its role and responsibilities in the project. The Department wishes to underscore that if any of the entities named as partners in the application have not signed the agreement form, the application will be returned to the applicant without further consideration for funding.

Because partnership requirements are established by law, the Department reviews each agreement form to be certain that it meets the terms of the law requiring all entities named as partners to sign the agreement.

Q. Can entities that are not eligible partners be involved in a workplace literacy project?

A. Yes. They could potentially be involved as "contractors," "helping organizations," or "sites," as defined in Sec. 432.5 of the regulations. Note that entities which are "helpers" or "sites" may not receive funds from the grant.

Q. What is meant by a required percent of non-Federal matching funds?

A. In this program, the recipient of Federal funds is required to "match" the Federal grant by paying at least a minimum percentage of total program costs. Total program costs include both the Federal funds received and the non-Federal contribution. For example, a partnership that is required to pay 30 percent of total program costs would have to contribute \$30,000 to match a Federal award of \$70,000 (\$30,000 = 30

percent of \$100,000 (\$30,000 plus \$70,000)). All partnerships must contribute at least 30 percent of total program costs, unless this amount is reduced because an SEA or LEA is the partnership's designated grantee. SEAs and LEAs are eligible to receive full—not merely 70 percent—reimbursement for their necessary and reasonable administrative costs incurred in establishing a project during the project start-up period. That period may not exceed 90 days.

Q. May a project provide vocational or job training activities?

A. No. Projects must provide adult education programs that teach literacy skills needed in the workplace. Workplace literacy activities include only the adult education activities listed in the Description of Program section of the Notice Inviting Applications. This list does not include vocational or job training activities such as auto mechanics, dye casting, tailoring, and statistical process control. Workplace literacy instruction, however, may enable individuals to benefit subsequently or simultaneously from advanced vocational skills training. For example, this program could support classes in math skills necessary for statistical process control but not a program of statistical process control training itself. If you are not sure whether a particular activity is eligible under this program, please call one of the program officers listed as an information contact in the application notice.

Q. May a project provide training in operating a computer?

A. Training to operate a computer that is part of the performance of a job is a form of vocational or job training and is not an eligible activity under this program. However, computers could be used as a means of instruction if this were necessary and reasonable under

the circumstances of a particular project. In such a context, it would be permissible to ensure that students possessed those rudimentary skills that are necessary to interact with computer-assisted literacy instruction.

Q. How many copies of the application should I submit and must they be bound?

A. The original application should be bound and clearly marked as the original application bearing the original signatures. Current Government-wide policy is that only an original and two copies need be submitted. However, an original and six bound copies will be greatly appreciated. The binding of applications is optional. If six copies are not submitted, then at least one copy (not the original) should be left unbound to facilitate any necessary reproduction. Please mark each application as original or copy. Applications should not include foldouts, photographs, audio-visuals, or other materials that are hard-to-duplicate.

Q. When will I find out if I'm going to be funded?

A. You can expect to receive notification within 8 to 9 months of the application closing date, depending on the number of applications received and the number of competitions with closing dates at about the same time.

Q. Will my application be returned?

A. We do not return original copies of applications. Thus, applicants should retain at least one copy of the application.

Q. What happens during negotiations?

A. During negotiations technical and budget issues may be raised. These are issues that have been identified during panel and staff reviews that require clarification. Sometimes issues are stated as "conditions." These are issues that have been identified as so critical that the award cannot be made unless those conditions are met. Questions may

also be raised about the proposed budget. Generally, these issues are raised because there is inadequate justification or explanation of a particular budget item, or because the budget item seems unimportant to the successful completion of the project. If you are asked to make changes that you feel could seriously affect the project's success, you may provide reasons for not making the changes or provide alternative suggestions. Similarly, if proposed budget reductions will, in your opinion, seriously affect the project activities, you may explain why and provide additional justification for the proposed expenses. An award cannot be made until all negotiation issues have been resolved.

Q. Where can copies of the Federal Register, program regulations, and Federal statutes be obtained?

A. Copies of these materials can usually be found at your local library. If not, they can be obtained from the Government Printing Office by writing to: Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402. Telephone: (202) 783-3238. When requesting copies of regulations or statutes, it is helpful to use the specific name, public law number, or part number. The materials referenced in this notice should be referred to as follows:

(1) Augustus F. Hawkins—Robert T. Stafford Elementary and Secondary School Improvement Amendments of 1988, Public Law 100-297, Title III, Sections 301-385.

(2) Education Department General Administrative Regulations, 34 CFR Parts 74, 75, 77, 79, 80, 81, 85, or 86.

(3) 34 CFR Part 432 (National Workplace Literacy Program), as published in the Federal Register (Vol. 54, No. 159, pages 34418-34420).

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Registered Federal Patent

**Tuesday
June 4, 1991**

Part IX

Department of Agriculture

Cooperative State Research Service

7 CFR Part 3403

Small Business Innovation Research Grants Program; Administrative Provisions; Proposed Rule

DEPARTMENT OF AGRICULTURE

Cooperative State Research Service

7 CFR Part 3403

Small Business Innovation Research Grants Program; Administrative Provisions

AGENCY: Cooperative State Research Service, USDA.

ACTION: Notice of proposed rulemaking.

SUMMARY: Cooperative State Research Service (CSRS) proposes to amend its regulations relating to the administration of the Small Business Innovation Research (SBIR) Grants Program on the procedures to be followed annually in the solicitation of research grant proposals, the evaluation of such proposals, and the award of competitive research grants under this program. This rule will amend those regulations to require that the space used by a small business awardee to conduct research be space over which it has exclusive control, that proposals include letters of consent from consultants and subcontractors in order for their participation to be evaluated during the review process, limiting equipment in a phase I grant to 10% of the budget, lengthening the period of phase I research in special cases, by offering an incentive to firms with prior USDA-SBIR grant support who summarize their progress in commercializing the results of the research, revising the "proprietary information" and "phase I results" sections, and by making a few additional changes. CSRS proposes to publish these regulations in their entirety in order to enhance their use by the public and to ensure expeditious submission and processing of grant proposals.

DATES: Written comments are invited from interested individuals and organizations. To be considered in the formulation of a final rule, all relevant material must be received on or before July 5, 1991.

ADDRESSES: Written comments should be sent to Terry J. Pacovsky, Director, Awards Management Division, Office of Grants and Program Systems, Cooperative State Research Service, U.S. Department of Agriculture, room 322, Aerospace Center, Washington, DC 20250-2200.

FOR FURTHER INFORMATION CONTACT: Terry J. Pacovsky at (202) 401-5024.

SUPPLEMENTARY INFORMATION:

Paperwork Reduction

Under the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. chapter 35), the collection of information requirements contained in this proposed rule have been approved under OMB Document Nos. 0524-0022, 0524-0025, and 0524-0026.

Classification

This rule has been reviewed under Executive Order 12291, and it has been determined that it is not a major rule because it does not involve a substantial or major impact on the Nation's economy or on large numbers of individuals or businesses. There will be no major increase in cost or prices for consumers, individual industries, Federal, State, or local governmental agencies, or geographic regions. It will not have a significant economic impact on competitive employment, investment, productivity, innovation, or on the ability of U.S. enterprises to compete with foreign-based enterprises in domestic or export markets. In addition, it will not have a significant impact on a substantial number of small entities as defined in the Regulatory Flexibility Act, Public Law No. 96-534 (5 U.S.C. 601).

Regulatory Analysis

Not required for this rulemaking.

Environmental Impact Statement

This regulation does not significantly affect the environment. Therefore, an environmental impact statement is not required under the National Environmental Policy Act of 1969, as amended.

Catalog of Federal Domestic Assistance

This program is listed in the Catalog of Federal Domestic Assistance under No. 10.212, Small Business Innovation Research (SBIR Program). For the reasons set forth in the final rule-related notice to 7 CFR part 3015, subpart V, 48 FR 29115, June 24, 1983, and pursuant to the Notice found at 52 FR 22831, June 16, 1987, this program is excluded from the scope of Executive Order 12372 which requires intergovernmental consultation with State and local officials.

Background and Purpose

On June 10, 1988, the Department published a final rule in the *Federal Register* (53 FR 21966-21972), which established part 3403 of title 7, subtitle B, chapter XXXIV of the Code of Federal Regulations, for the purpose of administering the U.S. Department of Agriculture's Small Business Innovation Research (SBIR) Grants Program conducted under the authority of the Small Business Innovation Development

Act of 1982, as amended (15 U.S.C. 638) and section 630 of the Act making appropriations for Agriculture, Rural Development, and Related Agencies' programs for fiscal year ending September 30, 1987, and for other purposes, as made applicable by section 101(a) of Public Law No. 99-591, 100 Stat. 3341. This rule established and codified the procedures to be followed in the solicitation of competitive small business innovation research proposals, the evaluation of such proposals, and the award of grants under this program. The administrative regulations governing the Small Business Innovation Research (SBIR) Grants Program are proposed to be changed as follows:

Section 3403.2(g)(2). CSRS proposes to change "Asian-Indian Americans" to "Subcontinent Asian Americans." This change is to conform with the June 1988 issue of the SBIR Policy Directive, as issued by the United States Small Business Administration Office of Innovation Research and Technology.

Section 3403.2(o) (3) and (4). CSRS proposes to revise and delete (o) (3) and (4) from this section and transfer them to § 3403.3 "Eligibility Requirements" where they are considered to be better suited.

Section 3403.3. This section is proposed to be changed to more adequately explain the eligibility requirements of both the small business firm and the principal investigator.

Section 3403.4(a). CSRS proposes to add language to this part that in special cases a period longer than 6 months may be considered for a phase I grant, when a proposed research project requires more than 6 months to complete. This is considered fair to all SBIR applicants and may in some instances result in more detailed and thorough proposals.

Section 3403.6(d). This section shows the 25-page limit for a phase I proposal but not a page limit for a phase II proposal. CSRS proposes to define a page-limit for a phase II proposal of 50 pages.

Section 3403.7(d). The words "and phase II" is proposed to be added after "phase I" because this section also pertains to phase II.

Section 3403.7(f). CSRS proposes to require that proposals must include letters from proposed consultants indicating their willingness to serve in order for such participation to be evaluated during the proposal review process. This will allow for a more in-depth review of the proposal and thus enhance the possibility of the applicant receiving a grant award.

Section 3403.7(g)(3). CSRS proposes to add a paragraph relating to

commercializing the results of prior USDA-SBIR grant support. By considering in the award decision past performance in the commercialization process it is believed SBIR applicants will have an incentive to commercialize their research results.

Section 3403.7(i)(2). CSRS proposes to limit the amount for equipment to 10% of a phase I budget. This will eliminate an excessive amount of grant funds being used to purchase equipment for only a 6-month phase I project. A reasonable amount of equipment is expected to be on hand when the proposal is submitted.

Section 3403.7(i)(4). CSRS proposes that applicants with subcontractual arrangements be required to submit with the proposal an agreement or a letter of consent signed by the subcontractor in order for such participation to be evaluated during the proposal review process. This will allow for a more thorough review of a proposal and enhance the prospect of receiving a grant award.

Section 3403.7(i)(5). In the past, proposals have been received with various fee percentages requested by applicants. By proposing a 7% limit on fees CSRS hopes to eliminate any uncertainty about the amount of a fee USDA will accept and at the same time decrease the time and expense involved in compiling a revised grant budget. Also, since Item I of the budget is not considered the appropriate block to enter a fee, because a fee is not a direct cost, we propose to enter the fee amount in block M of the budget sheet. The words "Less Residual Funds (if applicable)" will be deleted from Item M.

Section 3403.7(i)(6). CSRS proposes to add "unless restricted by statute" after the end of the first sentence, regarding use of the indirect cost rate. Normally, an applicant may use its negotiated indirect cost rate with a Federal agency, if it has one, except where a statute requires a specific rate be used for all applicants.

Section 3403.7(j)(1) and 3404.7(j)(2)(iii). CSRS proposes to add information to this part pertaining to laboratory animal care in order to be consistent in informing the public of the guidelines to be applied and observed when conducting research involving special considerations. This part already contains information on recombinant DNA molecules and human subjects at risk.

Section 3403.7(k). CSRS proposes to shorten the legend that must be included on all proposals containing proprietary information. This action and other changes to this part will permit a better understanding by applicants of what is

required in proposals regarding the use of proprietary information.

Section 3403.7(l). CSRS proposes to delete the phrase "and are contained in the program solicitation." Forms CSRS-665 and CSRS-666 will not be included in future SBIR solicitations but will be sent to applicants at the time of recommendation for a grant award. This change will eliminate an unnecessary paper flow.

Section 3403.8(c). CSRS proposes to change this paragraph to require an extensive section that lists the phase I objectives and a detailed presentation of phase I results. By proposing to establish the degree to which phase I objectives were met and feasibility of the proposed research project was established, reviewers will be better able to judge the merits of a phase II application.

Section 3403.8(g). CSRS proposes to add a last sentence to read "It will not count as part of the 50-page limit for a phase II application." This will be a comfort to a phase II applicant in knowing it can obtain a contingent commitment for phase III follow-on funding which will not be counted as part of the 50-page limit for a phase II proposal.

Section 3403.12(a). CSRS proposes to insert "and (2)" in this paragraph after "(a)(1)" because (a)(2) is proposed to be of the same weight in importance as (a)(1).

Section 3403.12(a)(2). CSRS proposes to change this paragraph in its entirety to read "Degree to which phase I objectives were met and feasibility was established." This action will increase the importance of (a)(2) and establish equal weight with (a)(1) in the proposal evaluation criteria.

Section 3403.13. The SBIR Policy Directive states "After final award decisions have been announced, the technical evaluations of the proposer's proposal may be provided to the proposer. The identity of the reviewer shall not be disclosed." The Small Business Administration requires CSRS to cite their policy directive in our annual SBIR solicitation regarding this requirement. We are being consistent by proposing to also cite it in these regulations.

Section 3403.17. CSRS proposes to add to this part the USDA implementing regulations that apply to Managing Federal Credit Programs (OMB Circular A-129), 7 CFR parts 1 and 3, the USDA implementing regulations that apply to Governmentwide Debarment and Suspension (Nonprocurement) and Governmentwide Requirements for Drug-Free Workplace (Grants), 7 CFR part 3017, as amended, and the USDA

implementing regulations that apply to New Restrictions on Lobbying, 7 CFR part 3018. These actions will indicate to the public that there are specific legal requirements in these areas and it is consistent in listing the regulations which apply to this program.

We propose to publish title 7, subtitle B, chapter XXXIV, part 3403, with the proposed amendments incorporated, in its entirety. This action will allow the regulations to appear in one document for easy access and reference by the public and CSRS.

List of Subjects in 7 CFR Part 3403

Grant programs—agriculture, Grant administration.

For the reasons set out in the preamble, title 7, subtitle B, chapter XXXIV, part 3403 of the Code of Federal Regulations is proposed to be revised to read as follows:

PART 3403—SMALL BUSINESS INNOVATION RESEARCH GRANTS PROGRAM

Subpart A—General Information

- Sec.
3403.1 Applicability of regulations.
3403.2 Definitions.
3403.3 Eligibility requirements.

Subpart B—Program Description

- 3403.4 Three-phase program.

Subpart C—Preparation and Submission of Proposals

- 3403.5 Requests for proposals.
3403.6 General content of proposals.
3403.7 Proposal format for phase I applications.
3403.8 Proposal format for phase II applications.
3403.9 Submission of proposals.

Subpart D—Proposal Review and Evaluation

- 3403.10 Proposal review.
3403.11 Phase I evaluation criteria.
3403.12 Phase II evaluation criteria.
3403.13 Availability of information.

Subpart E—Supplementary Information

- 3403.14 Terms and conditions of grant awards.
3403.15 Notice of grant awards.
3403.16 Use of funds; changes.
3403.17 Other Federal statutes and regulations that apply.
3403.18 Other Conditions.

Authority: 5 U.S.C. 301.

Subpart A—General Information

§ 3403.1 Applicability of regulations.

(a) The regulations of this part apply to small business innovation research grants awarded under the general authority of section 630 of the Act making appropriations for Agriculture,

Rural Development, and Related Agencies' programs for fiscal year ending September 30, 1987, and for other purposes, as made applicable by section 101(a) of Public Law 99-591, 100 Stat. 3341, and the provisions of the Small Business Innovation Development Act of 1982, as amended (15 U.S.C. 638). The Small Business Innovation Development Act of 1982, as amended, mandates that each Federal agency with an annual extramural budget for research or research and development in excess of \$100 million participate in a Small Business Innovation Research (SBIR) program by reserving a statutory percentage of its annual extramural budget for award to small business concerns for research or research and development in order to stimulate technological innovation, use small business to meet Federal research and development needs, increase private sector commercialization of innovations derived from Federal research and development, and foster and encourage minority and disadvantaged participation in technological innovation. The U.S. Department of Agriculture (USDA) will participate in this program through the issuance of competitive research grants which will be administered by the Office of Grants and Program Systems, Cooperative State Research Service (CSRS).

(b) The regulations of this part do not apply to research grants awarded by the Department of Agriculture under any other authority.

§ 3403.2 Definitions.

As used in this part:

(a) *Ad hoc reviewers* means experts or consultants, qualified by training and experience in particular scientific or technical fields to render expert advice on the scientific or technical merit of grant applications in those fields, who review on an individual basis one or several of the eligible proposals submitted to this program in their area of expertise and who submit to the Department written evaluations of such proposals.

(b) *Awarding official* means any officer or employee of the Department who has the authority to issue or modify research project grant instruments in behalf of the Department.

(c) *Budget period* means the interval of time into which the project period is divided for budgetary and reporting purposes.

(d) *Department* means the Department of Agriculture.

(e) *Funding agreement* is any contract, grant, or cooperative agreement entered into between any Federal agency and any small business for the performance

of experimental, developmental, or research work funded in whole or in part by the Federal Government.

(f) *Grantee* means the small business concern designated in the grant award document as the responsible legal entity to whom a grant is awarded under this part.

(g) *Minority and disadvantaged small business* is a concern:

(1) Which is at least 51 percent owned by one or more minority and disadvantaged individuals or, in the case of any publicly owned business, one in which at least 51 percent of the voting stock is owned by one or more minority and disadvantaged individuals; and

(2) Whose management and daily business operations are controlled by one or more such individuals. For purposes of this program, a minority and disadvantaged individual is defined as a member of any of the following groups: Black Americans, Hispanic Americans, Native Americans, Asian-Pacific Americans, or Subcontinent Asian Americans.

(h) *Peer review group* means experts or consultants, qualified by training and experience in particular scientific or technical fields to give expert advice on the scientific and technical merit of grant applications in those fields, who assemble as a group to discuss and evaluate all of the eligible proposals submitted to this program in their area of expertise.

(i) *Principal investigator* means a single individual designated by the grantee in the grant application and approved by the Department who is responsible for the scientific and technical direction of the project.

(j) *Program solicitation* is a formal request for proposals whereby an agency notifies the small business community of its research or research and development needs and interests in selected areas and invites proposals from small business concerns in response to those needs.

(k) *Project* means the particular activity within the scope of one of the research topic areas identified in the annual solicitation of applications, which is supported by a grant award under this part.

(l) *Project period* means the total length of time that is approved by the Department for conducting the research project as outlined in an approved grant application.

(m) *Research or research and development (R&D)* means any activity which is:

(1) A systematic, intensive study directed toward greater knowledge or understanding of the subject studied;

(2) A systematic study directed specifically toward applying new knowledge to meet a recognized need; or

(3) A systematic application of knowledge toward the production of useful materials, devices, and systems or methods, including design, development, and improvement of prototypes and new processes to meet specific requirements.

(n) *Research project grant* means the award by the Department of funds to a grantee to assist in meeting the costs of conducting for the benefit of the public an identified project which is intended and designed to establish, discover, elucidate, or confirm information or the underlying mechanisms relating to a research topic area identified in the annual solicitation of applications.

(o) *Small business* means a concern which at the time of award of phase I and phase II funding agreements meets the following criteria:

(1) Is organized for profit, independently owned or operated, is not dominant in the field in which it is proposing, has its principal place of business located in the United States, has a number of employees not exceeding 500 (full-time, part-time, temporary, or other) in all affiliated concerns owned or controlled by a single parent concern, and meets the other regulatory requirements outlined in 13 CFR part 121. Business concerns, other than licensed investment companies, or State development companies qualifying under the Small Business Investment Act of 1958, 15 U.S.C. 661, et seq., are affiliates of one another when directly or indirectly one concern controls or has the power to control the other or third parties (or party) control or have the power to control both. Control can be exercised through common ownership, common management, and contractual relationships. The term "affiliates" is defined in greater detail in 13 CFR 121.3(a). The term "number of employees" is defined in 13 CFR 121.2(b). Business concerns include, but are not limited to, any individual, partnership, corporation, joint venture, association, or cooperative.

(2) Is at least 51 percent owned, or in the case of a publicly owned business at least 51 percent of its voting stock is owned, by United States citizens or lawfully admitted permanent resident aliens.

(p) *Subcontract* is any agreement, other than one involving an employer-employee relationship, entered into by a Federal Government funding agreement awardee calling for supplies or services

required solely for the performance of the original funding agreement.

(q) *United States* means the several States, the territories and possessions of the United States, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, the Trust Territory of the Pacific Islands, and the District of Columbia.

(r) *Women-owned small business* means a concern that is at least 51 percent owned by a woman or women who also control and operate it. *Control* as used in this context means exercising the power to make policy decisions. *Operate* as used in this context means being actively involved in the day-to-day management of the concern.

§ 3403.3 Eligibility requirements.

(a) *Eligibility of firm.* Each organization submitting a proposal must qualify as a small business for research purposes, as defined in § 3403.2. Joint ventures and limited partnerships are eligible to apply for and to receive research grants under this program, provided that the entity created qualifies as a small business in accordance with section 2(3) of the Small Business Act (15 U.S.C. 632) and as defined in § 3403.2(o) of this part. For both phase I and phase II the research must be performed in the United States. A minimum of two-thirds of the research or analytical work, as determined by budget expenditures, must be performed by the proposing organization under phase I grants. For phase II awards, a minimum of one-half of the research or analytical effort must be conducted by the proposing firm. The space used by the SBIR awardee to conduct the research must be space over which it has exclusive control for the period of the grant.

(b) *Eligibility of principal investigator.* The primary employment of the principal investigator must be with the proposing firm at the time of award and during the conduct of the proposed research. Primary employment means that more than one-half of the principal investigator's time is spent in the employ of the small business. Primary employment with the small business applicant precludes full-time employment with another organization. If the proposed principal investigator is employed by another organization (e.g., university or another company) at the time of submission of the application, documentation must be submitted with the proposal from the principal investigator's current employer verifying that, in the event of an SBIR award, he/she will become a less-than-half-time employee of such organization and will

remain so for the duration of the SBIR project.

Subpart B—Program Description

§ 3403.4 Three-phase program.

The Small Business Innovation Research Grants Program will be carried out in three separate phases described below. The first two phases are designed to assist USDA in meeting its research and development objectives and will be supported with Federal funds. The purpose of the third phase is to pursue the commercial applications or objectives of the research carried out in phases I and II through the use of private, non-Federal funds.

(a) Phase I is the initial stage in which the scientific and technical merit and feasibility of an idea related to one of the research areas described in the program solicitation is evaluated, normally for a period not to exceed 6 months. In special cases, however, where a proposed research project requires more than 6 months to complete, a longer grant period may be considered. In such cases the phase I award will still be limited to \$50,000, and the submission of a Phase II proposal will be delayed by one year.

(b) Phase II is the principal research or research and development effort in which the results from Phase I are expanded upon and further pursued, normally for a period not to exceed 24 months. Only those small businesses previously receiving phase I awards are eligible to submit phase II proposals. For each phase I project funded the awardee may apply for a phase II award only once. Phase I awardees who for valid reasons cannot apply for phase II support in the next fiscal year funding cycle may apply for support not later than the second fiscal year funding cycle.

(c) Phase III is the pursuit of commercial objectives resulting from the Federally supported work carried out in phases I and II. This portion of the project is performed by the small business firm and privately funded by a non-Federal source through the use of a follow-on funding commitment. A follow-on funding commitment is an agreement between the small business firm and a provider of follow-on capital for a specified amount of funds to be made available to the small business for further development of their effort upon achieving certain mutually agreed upon technical objectives during phase II.

Subpart C—Preparation and Submission of Proposals

§ 3403.5 Requests for proposals.

(a) *Phase I.* A program solicitation requesting phase I proposals will be prepared each fiscal year in which funds are made available for this purpose. The solicitation will contain information sufficient to enable eligible applicants to prepare grant proposals and will include descriptions of specific research topic areas which the Department will support during the fiscal year involved, forms to be completed and submitted with proposals, and special requirements. A notice will be published in the *Federal Register* informing the public of the availability of the program solicitation.

(b) *Phase II.* For each fiscal year in which funds are made available for this purpose, the Department will send a letter requesting phase II proposals from the phase I grantees eligible to apply for phase II funding in that fiscal year. The letter will contain information sufficient to enable eligible applicants to prepare grant proposals and will include forms to be submitted with proposals as well as special requirements.

§ 3403.6 General content of proposals.

(a) The proposed research must be responsive to one of the USDA program interests stated in the research topic descriptions of the program solicitation.

(b) Proposals must cover only scientific research activities. A firm must not propose product development, technical assistance, demonstration projects, classified research, or patent applications. Literature surveys should be conducted prior to preparing proposals for submission and must not be proposed as a part of the SBIR phase I or phase II effort. Proposals principally for the development of proven concepts toward commercialization or for market research should not be submitted since such efforts are considered the responsibility of the private sector and therefore are not supported by USDA.

(c) A proposal must be limited to only one topic. The same proposal may not be submitted under more than one topic. However, an organization may submit separate proposals on the same topic. Where similar research is discussed under more than one topic, the proposer should choose that topic whose description appears most relevant to the proposer's research concept. Duplicate proposals will be returned to the applicant without review.

(d) Phase I applicants should submit a research proposal of no more than 25 pages, including cover page, budget, and

all proposal-related enclosures or attachments. The text must be prepared on only one side of the page using standard 8½" x 11" white paper, with no type smaller than elite regardless of whether it is single or double spaced. In the interest of equity to all proposers, no additional attachments, appendixes, or references beyond the 25-page limitation will be considered in the proposal evaluation process, and proposals in excess of the 25-page limitation will not be considered for review or award. In addition, supplementary materials, revisions, and/or substitutions will not be accepted after the due date for proposals. Phase II applicants should submit a research proposal of no more than 50 pages, including cover page, budget, and all proposal-related enclosures or attachments.

§ 3403.7 Proposal format for phase I applications.

(a) *Cover sheet.* Photocopy and complete Form CSRS-667 in the program solicitation. The original of the cover sheet must at a minimum contain the pen-and-ink signatures of the proposed principal investigator(s) and the authorized organizational official. A proposal which does not contain the signature of the authorized organizational official will not be considered a legal document and will be returned to the proposing small business firm without review. All other copies of the proposal must also contain a cover sheet, but facsimile or photocopied signatures will be accepted. The title should be a brief (80-character maximum), clear, specific designation of the research proposed. It will be used to provide information to Congress and also will be used in issuing press releases. Therefore, it should not contain highly technical words. In addition, phrases such as "investigation of" or "research on" should not be used.

(b) *Project summary.* Photocopy and complete Form CSRS-668 in the program solicitation. The technical abstract should include a brief description of the problem or opportunity, project objectives, and a description of the effort. Anticipated results and potential commercial applications of the proposed research also should be summarized in the space provided. Keywords, to be provided in the last block on the page, should characterize the most important aspects of the project. The project summary of successful proposals may be published by USDA and, therefore, should not contain proprietary information.

(c) *Technical content.* The main body of the proposal should include:

(1) *Identification and significance of the problem or opportunity.* Clearly state the specific technical problem or opportunity addressed and its importance.

(2) *Background and rationale.* Indicate the overall background and technical approach to the problem or opportunity and the part that the proposed research plays in providing needed results.

(3) *Relationship with future research or research and development.* Discuss the significance of the phase I effort in providing a foundation for the phase II R&D effort. State the anticipated results of the approach if the project is successful (phases I and II). This should address: The technical, economic, social, and other benefits to the Nation and to users of the results such as the commercial sector, the Federal Government, or other researchers; the estimated total cost of the approach relative to benefits; and, if appropriate, any specific policy issues or decisions which might be affected by the results.

(4) *Phase I technical objectives.* State the specific objectives of the phase I research or research and development effort, including the technical questions it will try to answer to determine the feasibility of the proposed approach.

(5) *Phase I work plan.* This work plan must provide an explicit, detailed description of the phase I research or research and development approach. The plan should indicate the tasks to be performed as well as how and where the work will be carried out. The phase I effort should attempt to determine the technical feasibility of the proposed concept. The work plan should be linked with the technical objectives of the research and the questions the effort is designed to answer. Therefore, it should flow logically from § 3403.7(c)(4) of this part. This section should constitute a substantial portion of the total proposal.

(6) *Related research or research and development.* Describe the significant research or research and development activities from relevant literature that are directly related to the proposed effort, including any conducted by the principal investigator or by the proposing firm, how it relates to the proposed effort, and any planned coordination with outside sources. The proposer must persuade reviewers that he or she is aware of related research in the selected subject.

(d) *Key personnel and bibliography.* Identify key personnel involved in the effort, including information on their directly related education and experience. For each key person, provide a chronological list of the most recent representative publications in the

topic area during the preceding 5 years, including those in press. List the authors (in the same order as they appear on the paper), the full title, and the complete reference as these usually appear in journals. Where vitae are extensive, summaries that focus on most relevant experience or publications may be necessary to meet the proposal size limitation in phase I and phase II.

(e) *Facilities and equipment.* Describe the types, location, and availability of instrumentation and physical facilities necessary to carry out the work proposed. Items of equipment to be purchased must be fully justified under this section.

(f) *Consultants.* Involvement of university or other consultants in the planning and research stages of the project is permitted and may be particularly helpful to small firms which have not previously received Federal research awards. If such involvement is intended, it should be described in detail. Proposals must include letters from proposed consultants indicating willingness to serve in order for such participation to be evaluated during the proposal review process.

(g) *Potential post application.* Briefly describe:

(1) Whether and by what means the proposed research appears to have potential commercial application; and

(2) Whether and by what means the proposed research appears to have potential use by the Federal Government. Firms with prior USDA SBIR grant support should summarize their progress in commercializing the results of this research. Past performance in the commercialization process may be a consideration in award decisions.

(h) *Current and pending support.* If a proposal, substantially the same as the one being submitted, has been previously funded or is currently funded, pending, or about to be submitted to another Federal agency or to USDA in a separate action, the proposer must provide the following information:

(1) Name and address of the agency(s) to which a proposal was submitted, or will be submitted, or from which an award is expected or has been received.

(2) Date of actual or anticipated proposal submission or date of award, as appropriate.

(3) Title of proposal or award, identifying number assigned by the agency involved, and the date of program solicitation under which the proposal was submitted or the award was received.

(4) Applicable research topic area for each proposal submitted or award received.

(5) Title of research project.

(6) Name and title of principal investigator for each proposal submitted or award received. USDA will not make awards that duplicate research funded (or to be funded) by other Federal agencies.

(i) *Cost breakdown on proposal budget.* Photocopy and complete Form CSRS-55 in the program solicitation only for the phase under which you are currently applying. (An applicant for phase I funding should not submit both phase I and II budgets.) Please note the following in completing the budget:

(1) *Salaries and wages.* Indicate the number and kind of personnel for whom salary support is sought. For key personnel, also indicate the number of work months of involvement to be supported with USDA funds (see blocks labeled "CSRS Funded Work Months").

(2) *Equipment.* Performing organizations are expected to have appropriate facilities, suitably furnished and equipped. Items of equipment may be requested provided that they are specifically identified and adequately justified, but such requests should normally not exceed 10% of the budget for phase I. Equipment is defined as an article of nonexpendable, tangible personal property having a useful life of more than 2 years and an acquisition cost of \$500 or more per unit. Vesting of title to equipment purchased with funds provided under an SBIR funding agreement will be determined by USDA. Awardees should plan to lease expensive equipment.

(3) *Travel.* The inclusion of travel will be carefully reviewed with respect to need and appropriateness for the research proposed. Foreign travel may not be included in the phase I budget.

(4) *Subcontracting limits.* Subcontracting may not exceed one-third of the research or analytical effort during phase I. In addition, subcontractors must perform their portion of the work in the United States. If subcontracting costs are anticipated, they should be indicated in block I, "All Other Direct Costs," on the budget sheet. A breakdown of subcontractual costs is required. For proposals involving subcontractual arrangements, the applicant must submit an agreement or letter of consent signed by the subcontractor in order for such participation to be evaluated during the proposal review process.

(5) *Fee.* A reasonable fee not to exceed 7% is permitted under this program. All fees are subject to negotiation with USDA. If a fee is

requested, the amount should be indicated in block M on the budget sheet.

(6) *Indirect costs.* If available, the current rate negotiated with the cognizant Federal negotiating agency should be used, unless restricted by statute. If no rate has been negotiated, a reasonable dollar amount in lieu of indirect costs may be requested, which will be subject to approval by USDA. A proposer may elect not to charge indirect costs and, instead, use all grant funds for direct costs. If a negotiated rate is used, the percentage and base should be indicated in the space allotted under item K on the budget sheet. If indirect costs are not charged, the phrase "None requested" should be written in this space.

(7) *Cost-sharing.* Cost-sharing is permitted for proposals under this program; however, cost-sharing is not required nor will it be an evaluation factor in considering the competitive merit of proposals submitted.

(j) *Research involving special considerations.* (1) If the proposed research will involve either recombinant DNA molecules, laboratory animal care, or human subjects at risk, the proposal must so indicate. In the event that the project is funded, the proposer may be required to have the research plan reviewed and approved by an appropriate "Institutional Review Board" prior to commencing actual substantive work. It is suggested that proposers contact local universities, colleges, or nonprofit research organizations which have established such reviewing mechanisms to have this service performed.

(2) Guidelines to be applied and observed when conducting such research are:

(i) *Recombinant DNA Molecules.* "Guidelines for Research Involving Recombinant DNA Molecules" issued by the National Institutes of Health. (See 51 FR 16958-16985 and any subsequent revisions.)

(ii) *Human Subjects at Risk.* Guidelines issued by the Department of Health and Human Services. (See 45 CFR part 46.)

(iii) *Laboratory Animal Care.* Guidelines issued by the Department of Agriculture. (See 9 CFR parts 1, 2, 3, and 4.)

(k) *Proprietary information.* (1) If a proposal contains proprietary information that constitutes a trade secret, proprietary commercial or financial information, confidential personal information, or data affecting the national security, it will be treated in confidence to the extent permitted by law, provided the information is clearly

marked by the proposer with the term "confidential proprietary information" and provided the following legend also appears in the designated area at the bottom of the proposal's cover sheet (Form CSRS-667) and is confined to a separate page or pages:

Note: Following is proprietary (specify information which (name of proposing organization) requests not be released to persons outside the Government, except for purposes of evaluation.

(2) USDA by law is required to make the final decision as to whether the information is required to be kept in confidence. Information contained in unsuccessful proposals will remain the property of the proposer. However, USDA will retain for one year one file copy of all proposals received; extra copies will be destroyed. Public release of information for any proposal submitted will be subject to existing statutory and regulatory requirements. Any proposal which is funded will be considered an integral part of the award and normally will be made available to the public upon request except for designated proprietary information.

(3) The inclusion of proprietary information is discouraged unless it is necessary for the proper evaluation of the proposal. If proprietary information is to be included, it should be limited, set apart from other text on a separate page, and keyed to the text by numbers. It should be confined to a few critical technical items which, if disclosed, could jeopardize the obtaining of foreign or domestic patents. Trade secrets, salaries, or other information which could jeopardize commercial competitiveness should be similarly keyed and presented on a separate page. Proposals or reports which attempt to restrict dissemination of large amounts of information may be found unacceptable by USDA. Any other legend than that listed in paragraph (k)(1) of this section may be unacceptable to USDA and may constitute grounds for return of the proposal without further consideration. Without assuming any liability for inadvertent disclosure, USDA will limit dissemination of such information to its employees and, where necessary for the evaluation of the proposal, to outside reviewers on a confidential basis. Since technical reports by the principal investigator(s) may be made available to the public, such reports shall not contain any restrictive language purporting to limit their use other than that which is set off on a proprietary page. However, USDA, to the extent permitted by law, normally will honor a request to delay release of

the report for 6 months, or longer if reasonable, so the proposer may seek patent protection or follow-on funding where appropriate.

(1) *Organizational management information.* Before the award of an SBIR funding agreement, USDA requires the submission of certain organizational management and financial information to assure the responsibility of the proposer. Form CSRS-666 ("Organizational Information") and Form CSRS-665 ("Assurance of Compliance with the Department of Agriculture Regulations Under Title VI of the Civil Rights Act of 1964, as amended") are used for this purpose. This information is not required unless a project is recommended for funding, and then it is submitted on a one-time basis only.

§ 3403.8 Proposal format for phase II applications.

(a) *Cover sheet.* Follow instructions found in § 3403.7(a) of this part.

(b) *Project summary.* Follow instructions found in § 3403.7(b) of this part.

(c) *Phase I results.* The proposal should contain an extensive section that lists the phase I objectives and makes detailed presentation of the phase I results. This section should establish the degree to which phase I objectives were met and feasibility of the proposed research project was established.

(d) *Proposal.* Since phase II is the principal research and development effort, proposals should be more comprehensive than those submitted under phase I. However, the outline contained in § 3403.7(c) of this part should be followed, tailoring the information requested to the phase II project.

(e) *Cost breakdown on proposal budget.* (1) For phase II, a detailed budget is required for each year of requested support. In addition, a summary budget is required detailing the requested support for the overall project period. Form CSRS-55, "Proposal Budget," is to be used for this purpose and may be photocopied as necessary.

(2) *Travel.* Foreign travel may be included as necessary in the phase II budget. Such a request will be reviewed with respect to need and appropriateness for the research proposed and therefore should be adequately justified in the proposal.

(3) *Subcontracting limits.* The instructions found in § 3403.7(i)(4) of this part apply to phase II proposals except that the subcontracting limit is changed from one-third to one-half of the research or analytical effort.

(f) *Organizational management information.* Each phase II awardee will be asked to submit an updated statement of financial condition.

(g) *Follow-on funding commitment.* If the proposer has obtained a contingent commitment for phase III follow-on funding, it should be forwarded with the phase II application. It will not count as part of the 50-page limit for a phase II application.

§ 3403.9 Submission of proposals.

The program solicitation for phase I proposals and the letter requesting phase II proposals will provide the deadline date for submitting proposals, the number of copies to be submitted, and the address where proposals should be mailed or delivered.

Subpart D—Proposal Review and Evaluation

§ 3403.10 Proposal review.

(a) All research grant applications will be acknowledged.

(b) Phase I and phase II proposals will be judged competitively in a two-stage process, based primarily upon scientific or technical merit. First, each proposal will be screened by USDA scientists to ensure that it is responsive to stated requirements contained in the program solicitation. Proposals found to be responsive will be technically evaluated by peer scientists knowledgeable in the appropriate scientific field using the criteria listed in § 3403.11 or § 3403.12 of this part, as appropriate. Proposals found to be nonresponsive will be returned to the proposing firm without review.

(c) Both internal and external peer reviewers may be used during the technical evaluation stage of this process. Selections will be made from among recognized specialists who are uniquely qualified by training and experience in their respective fields to render expert advice on the merit of proposals received. It is anticipated that such experts will include those located in universities, Government, and non-profit research organizations. If possible, USDA intends that peer review groups shall be balanced with minority and female representation and with an equitable age distribution.

(d) Technical reviewers will base their conclusions and recommendations on information contained in the phase I or phase II proposal. It cannot be assumed that reviewers are acquainted with any experiments referred to within a proposal, with key individuals, or with the firm itself. Therefore, the proposal should be self-contained and written

with the care and thoroughness accorded papers for publication.

(e) Final decisions will be made by USDA based upon the ratings assigned by reviewers and consideration of other factors, including the potential commercial application, possible duplication of other research, any critical USDA requirements, program balance, and budget limitation. In addition, the follow-on funding commitment will be a consideration for phase II proposals.

§ 3403.11 Phase I evaluation criteria.

USDA plans to select for award those proposals offering the best value to the Nation, with approximately equal consideration given to each of the following criteria except for paragraph (a) of this section which will receive twice the value of any of the other items:

(a) The scientific/technical quality of the Phase I research plan and its relevance to the stated objectives, with special emphasis on innovativeness and originality.

(b) Importance of the problem or opportunity and anticipated benefits of the proposed research, if successful.

(c) Adequacy of the phase I objectives to show incremental progress toward proving the feasibility of approach.

(d) Qualifications of the principal investigator(s), other key staff and consultants, and the probable adequacy of available or obtainable instrumentation and facilities.

§ 3403.12 Phase II evaluation criteria.

(a) A phase II proposal may be submitted only by a phase I awardee. The phase II proposal will be reviewed for overall merit based on the following criteria with each item receiving approximately equal weight except for paragraphs (a) (1) and (2) of this section, which will receive twice the value of any of the other items:

(1) The scientific/technical quality of the proposed research, with special emphasis on innovativeness and originality.

(2) Degree to which phase I objectives were met and feasibility was established.

(3) The technical, economic, and/or social importance of the problem or opportunity and anticipated benefits if Phase II research is successful.

(4) The adequacy of the phase II objectives to meet the problem or opportunity.

(5) The qualifications of the principal investigator(s) and other key personnel to carry out the proposed work.

(6) Reasonableness of the budget requested for the work proposed.

(b) In the event that two or more phase II proposals are of approximately equal technical merit, the follow-on funding commitment for continued development in phase III will be an important consideration. The value of the commitment will depend upon the degree of commitment made by non-Federal investors, with the maximum value resulting from a signed agreement with reasonable terms for an amount at least equal to the funding requested from USDA in phase II.

§ 3403.13 Availability of information.

Information regarding the peer review process will be made available to the extent permitted under the Freedom of Information Act (5 U.S.C. 552), the Privacy Act (5 U.S.C. 552a), the SBIR Policy Directive, and implementing Departmental and other Federal regulations. Implementing Departmental regulations are found at 7 CFR part 1.

Subpart E—Supplementary Information

§ 3403.14 Terms and conditions of grant awards.

Within the limit of funds available for such purpose, the awarding official shall make research project grants to those responsible, eligible applicants whose proposals are judged most meritorious in the announced program areas under the evaluation criteria and procedures set forth in this part. The beginning of the project period shall be no later than September 30 of the Federal fiscal year in which the project is approved for support. All funds granted under this part shall be expended solely for the purpose for which the funds are granted in accordance with the approved application and budget, the regulations of this part, the terms and conditions of the award, the Federal Acquisition Regulation (48 CFR part 31), and the Department's Uniform Federal Assistance Regulations (7 CFR part 3015).

§ 3403.15 Notice of grant awards.

(a) the grant award document shall include, at a minimum, the following:

- (1) Legal name and address of performing organization.
- (2) Title of project.
- (3) Name(s) and address(es) of Principal Investigator(s).
- (4) Identifying grant number assigned by the Department.
- (5) Project period, which specifies how long the Department intends to support the effort.
- (6) Total amount of Federal financial assistance approved during the project period.

(7) Legal authorities under which the grant is awarded.

(8) Approved budget plan for categorizing allocable project funds to accomplish the stated purpose of the grant award.

(9) Other information or provisions deemed necessary by the Department to carry out its granting activities or to accomplish the purpose of a particular research project grant.

(b) The notice of grant award, in the form of a letter, will provide pertinent instructions and information to the grantee which are not included in the grant award document described above.

§ 3403.16 Use of funds; changes.

(a) *Delegation of fiscal responsibility.* The grantee may not in whole or in part delegate or transfer to another person, institution, or organization the responsibility for use or expenditure of grant funds.

(b) *Change in project plans.* (1) The permissible changes by the grantee, principal investigator(s), or other key project personnel in the approved research project grant shall be limited to changes in methodology, techniques, or other aspects of the project to expedite achievement of the project's approved goals. If the grantee and/or the principal investigator(s) are uncertain as to whether a change complies with this provision, the question must be referred to the Department for a final determination.

(2) Changes in approved goals, or objectives, shall be requested by the grantee and approved in writing by the Department prior to effecting such changes. In no event shall requests for such changes be approved which are outside the scope of the original approved project.

(3) Changes in approved project leadership or the replacement or reassignment of other key project personnel shall be requested by the grantee and approved in writing by the Department prior to effecting such changes.

(4) Transfers of actual performance of the substantive programmatic work in whole or in part and provisions for payment of funds, whether or not Federal funds are involved, shall be requested by the grantee and approved in writing by the Department prior to effecting such transfers.

(c) *Changes in project period.* The project period may be extended by the Department without additional financial support for such additional period(s) as the Department determines may be necessary to complete or fulfill the purposes of an approved project. Such extension shall be conditioned upon

prior request by the grantee and approval in writing by the Department.

(d) *Changes in approved budget.* Changes in an approved budget shall be requested by the grantee and approved in writing by the Department prior to instituting such changes if the revision will:

- (1) Involve transfers of amounts budgeted for indirect costs to absorb increase in direct costs;
- (2) Involve transfers of amounts budgeted for direct costs to accommodate changes in indirect cost rates negotiated during a budget period and not approved when a grant was awarded;
- (3) Result in a need or claim for the award of additional funds; or
- (4) Involve transfers or expenditures of amounts requiring prior approval as set forth in the Departmental regulations or in the grant award.

§ 3403.17 Other Federal statutes and regulations that apply.

Several other Federal statutes and/or regulations apply to grant proposals considered for review or to research project grants awarded under this part. These include but are not limited to:

7 CFR 1.1—USDA implementation of Freedom of Information Act.

7 CFR part 3—USDA implementation of OMB Circular A-129, Managing Federal Credit Programs.

7 CFR part 15, subpart A—USDA implementation of title VI of the Civil Rights Act of 1964, as amended.

7 CFR part 3015—USDA Uniform Federal Assistance Regulations, implementing OMB directives (i.e., Circular Nos. A-102, A-110, A-87, A-21, and A-122) and incorporating provisions of 31 U.S.C. 6301-6308 (formerly the Federal Grant and Cooperative Agreement Act of 1977, Public Law 95-224), as well as general policy requirements applicable to recipients of Departmental financial assistance.

7 CFR part 3017, as amended—USDA implementation of Governmentwide Debarment and Suspension (Nonprocurement) and Governmentwide Requirements for Drug-Free Workplace (Grants), as amended.

7 CFR part 3018—USDA implementation of New Restrictions on Lobbying. Imposes new prohibitions and requirements for disclosure and certification related to lobbying on recipients of Federal contracts, grants, cooperative agreements, and loans.

48 CFR part 31—Contract Cost Principles and Procedures of the Federal Acquisition Regulation.

29 U.S.C. 794, section 504—Rehabilitation Act of 1973, and CFR part 15B (USDA implementation of statute), prohibiting discrimination based upon physical or mental handicap in Federally assisted programs.

35 U.S.C. 200 et seq.—Bayh-Dole Act, controlling allocation of rights to inventions made by employees of small business firms

and domestic nonprofit organizations, including universities, in Federally assisted programs (implementing regulations are contained in 37 CFR part 401).

§ 3403.13 Other conditions.

The Department may, with respect to any research project grant, impose additional conditions prior to or at the time of any award when, in the Department's judgment, such conditions are necessary to assure or protect advancement of the approved project, the interests of the public, or the conservation of grant funds.

Done at Washington, DC, this 28th day of May 1991.

John Patrick Jordan,

Administrator, Cooperative State Research Service.

[FR Doc. 91-13119 Filed 6-3-91; 8:45 am]

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Federal Register

Vol. 56, No. 107

Tuesday, June 4, 1991

INFORMATION AND ASSISTANCE

Federal Register

Index, finding aids & general information	523-5227
Public inspection desk	523-5215
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Machine readable documents	523-3447

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Index, finding aids & general information	523-5227
Printing schedules	523-3419

Laws

Public Laws Update Service (numbers, dates, etc.)	523-6641
Additional information	523-5230

Presidential Documents

Executive orders and proclamations	523-5230
Public Papers of the Presidents	523-5230
Weekly Compilation of Presidential Documents	523-5230

The United States Government Manual

General information	523-5230
---------------------	----------

Other Services

Data base and machine readable specifications	523-3408
Guide to Record Retention Requirements	523-3187
Legal staff	523-4534
Library	523-5240
Privacy Act Compilation	523-3187
Public Laws Update Service (PLUS)	523-6641
TDD for the hearing impaired	523-5229

FEDERAL REGISTER PAGES AND DATES, JUNE

25005-25344.....	3
25345-25608.....	4

CFR PARTS AFFECTED DURING JUNE

At the end of each month, the Office of the Federal Register publishes separately a List of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

7 CFR

777.....	25345
1494.....	25005
1700.....	25348
1951.....	25350
1965.....	25350
Proposed Rules:	
1005.....	25375
3403.....	25600

12 CFR

1609.....	25352
-----------	-------

13 CFR

Proposed Rules:	
122.....	25378

14 CFR

39.....	25021, 25353-25362
121.....	25450
125.....	25450
127.....	25450
129.....	25450
135.....	25450
Proposed Rules:	
39.....	25051, 25052, 25379, 25380
71.....	25381, 25382
75.....	25382

15 CFR

295.....	25363
775.....	25022
776.....	25022
779.....	25022
785.....	25022
799.....	25022, 25023
Proposed Rules:	
771.....	25054
777.....	25054

17 CFR

Proposed Rules:	
240.....	25056

19 CFR

162.....	25363
Proposed Rules:	
162.....	25383

20 CFR

416.....	25446
----------	-------

21 CFR

5.....	25024
177.....	25446
1306.....	25025
Proposed Rules:	
155.....	25385

22 CFR

521.....	25027
Proposed Rules:	
43.....	25386

23 CFR

Proposed Rules:	
650.....	25392

26 CFR

42.....	25364
602.....	25364

29 CFR

Proposed Rules:	
578.....	25168

30 CFR

700.....	25036
840.....	25036
842.....	25036

32 CFR

199.....	25039
552.....	25039

33 CFR

100.....	25042
117.....	25369
Proposed Rules:	
117.....	25397

38 CFR

1.....	25043
3.....	25043
21.....	25045
Proposed Rules:	
3.....	25399
13.....	25399

39 CFR

Proposed Rules:	
111.....	25059

40 CFR

142.....	25046
----------	-------

42 CFR

412.....	25458
Proposed Rules:	
412.....	25178
413.....	25178

45 CFR

57.....	25446
---------	-------

47 CFR

43.....	25370
64.....	25370
97.....	25372

Proposed Rules:

Ch. I..... 25400

48 CFR

52..... 25446

Proposed Rules:

232..... 25446

252..... 25446

49 CFR

1..... 25050

50 CFR

658..... 25374

Proposed Rules:

23..... 25447

215..... 25066

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Last List May 29, 1991

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H.J. Res. 141/Pub. L. 102-51

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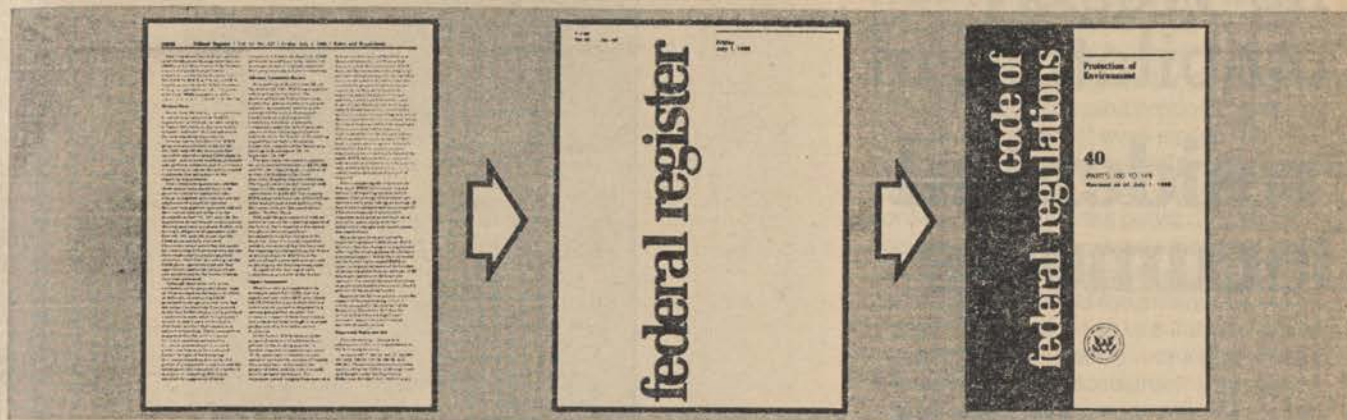
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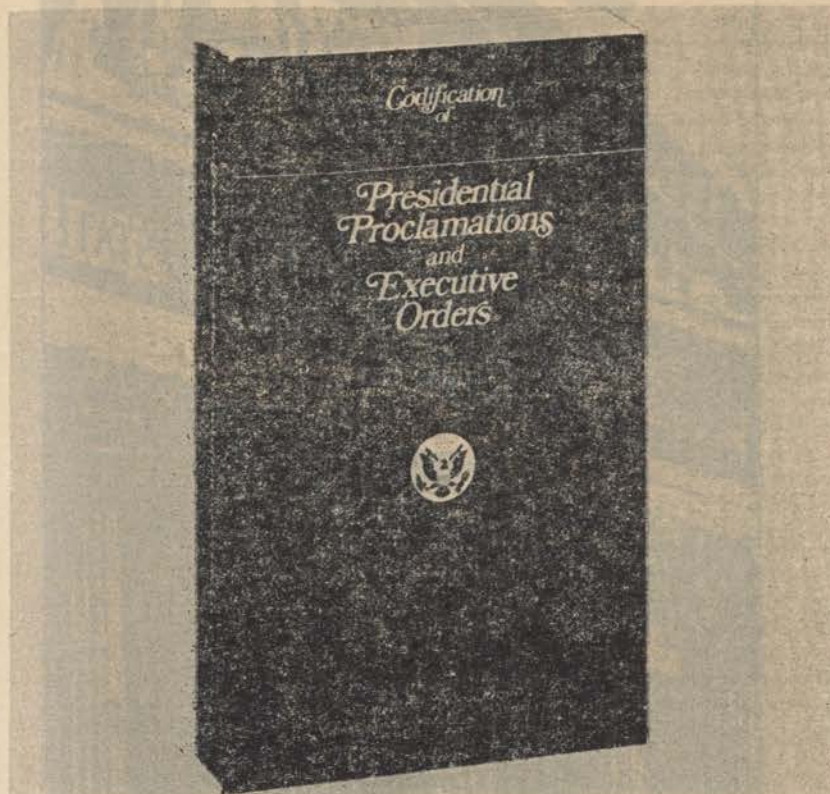
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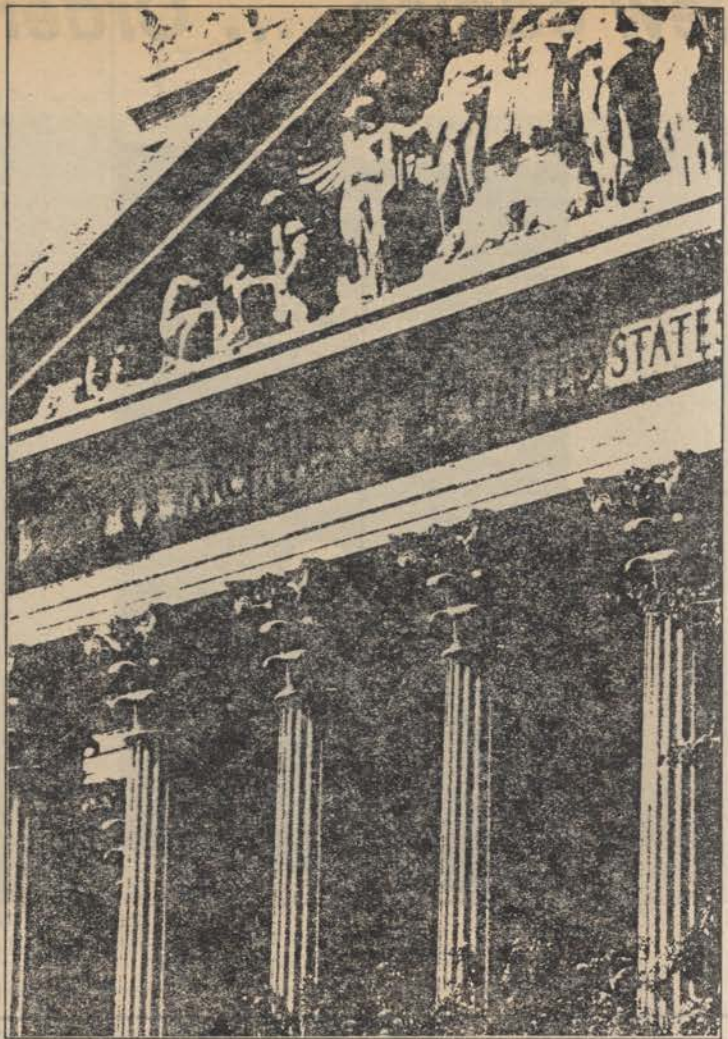
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